

MIDWEST DIVISION - LSH, LLC

Form 424B3

July 10, 2009

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**Filed Pursuant to Rule 424(b)(3)  
Registration No. 333-159511**

Prospectus

**HCA Inc.**

**Debt Securities**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the notes or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

This prospectus has been prepared for and may be used by Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated and their affiliates in connection with offers and sales of the debt securities referenced herein related to market-making transactions in such debt securities effected from time to time. Such affiliates may act as principal or agent in such transactions, including as agent for the counterparty when acting as principal or as agent for both counterparties, and may receive compensation in the form of discounts and commissions, including from both counterparties, when they act as agents for both. Such sales will be made at prevailing market prices at the time of sale, at prices related thereto or at negotiated prices. We will not receive any proceeds from such sales.

You should rely only on the information contained in this prospectus. We have not authorized anyone to provide you with different information. The prospectus may be used only for the purposes for which it has been published and no person has been authorized to give any information not contained herein. If you receive any other information, you should not rely on it. We are not making an offer of these securities in any state where the offer is not permitted.

**Investing in the notes involves risks. See Risk Factors beginning on page 6 for a discussion of certain risks that you should consider before investing in the securities.**

We are offering to sell these securities only in places where sales are permitted.

The date of this prospectus is July 10, 2009.

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**WHERE YOU CAN FIND MORE INFORMATION ABOUT HCA INC.**

We file certain reports with the Securities and Exchange Commission (the SEC), including annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K. The public may read and copy any materials we file with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. We are an electronic filer, and the SEC maintains an Internet site at <http://www.sec.gov> that contains the reports and other information we file electronically. Our website address is [www.hcahealthcare.com](http://www.hcahealthcare.com). Please note that our website address is provided as an inactive textual reference only. The information provided on our website is not part of this prospectus and is therefore not incorporated by reference unless such information is specifically referenced elsewhere in this prospectus. We make available free of charge, through our website, our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and all amendments to those reports filed or furnished pursuant to Section 15(d) of the Exchange Act, as soon as reasonably practicable after such material is electronically filed with or furnished to the SEC.

The SEC allows us to incorporate by reference into this prospectus the information in documents we file with the SEC, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be a part of this prospectus, and later information that we file with the SEC will update and supersede this information. The information contained in this prospectus supersedes any inconsistent information contained in the documents incorporated by reference herein.

We incorporate by reference the documents listed below other than, in each case, those documents or the portions of those documents which are furnished and not filed:

HCA Inc.'s annual report on Form 10-K for the year ended December 31, 2008;

HCA Inc.'s quarterly report on Form 10-Q for the quarter ended March 31, 2009;

HCA Inc.'s current reports on Form 8-K filed on February 11, 2009 (Item 5.02), February 25, 2009, April 27, 2009, April 28, 2009, May 7, 2009, May 27, 2009 and June 22, 2009; and

the descriptions of the terms of the specified debt securities contained under the captions indicated in the following documents filed with the SEC:

the description of the 5.50% Senior Notes Due 2009 and the 6.375% Senior Notes Due 2015 set forth under the caption "Description of the Notes" in the prospectus supplement dated November 16, 2004, and under the caption "Description of the Debt Securities" in the prospectus dated October 16, 2003, each filed with the SEC on November 17, 2004 (SEC File No. 333-107536);

the description of the \$750,000,000 in aggregate principal amount of 8.75% Senior Notes Due 2010 set forth under the caption "Description of the Notes" in the prospectus supplement dated August 18, 2000, and under the caption "Description of the Debt Securities" in the prospectus dated August 5, 1999, each filed with the SEC on August 21, 2000 (SEC File No. 333-82219);

the description of the £150,000,000 in aggregate principal amount of 8.75% Senior Notes Due 2010 set forth under the caption "Description of the Notes" in the prospectus supplement dated October 25, 2000, and under the caption "Description of the Debt Securities" in the prospectus dated August 5, 1999, each filed with the

SEC on October 27, 2000 (SEC File No. 333-82219);

the description of the 7.875% Senior Notes Due 2011 set forth under the caption "Description of the Notes" in the prospectus supplement dated January 23, 2001, and under the caption "Description of the Debt Securities" in the prospectus dated December 19, 2000, each filed with the SEC on January 24, 2001 (SEC File No. 333-51540);

the description of the 6.95% Senior Notes Due 2012 set forth under the caption "Description of the Notes" in the prospectus supplement dated April 23, 2002, and under the caption "Description of the

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Debt Securities in the prospectus dated December 19, 2000, each filed with the SEC on April 26, 2002 (SEC File No. 333-51540);

the description of the 6.30% Senior Notes Due 2012 set forth under the caption Description of the Notes in the prospectus supplement dated September 18, 2002, and under the caption Description of the Debt Securities in the prospectus dated May 16, 2002, each filed with the SEC on September 20, 2002 (SEC File No. 333-87588);

the description of the 6.25% Senior Notes Due 2013 set forth under the caption Description of the Notes in the prospectus supplement dated February 5, 2003, and under the caption Description of the Debt Securities in the prospectus dated May 16, 2002, each filed with the SEC on February 7, 2003 (SEC File No. 333-87588);

the description of the 6.75% Senior Notes Due 2013 set forth under the caption Description of the Notes in the prospectus supplement dated July 23, 2003, and under the caption Description of the Debt Securities in the prospectus dated May 16, 2002, each filed with the SEC on July 25, 2003 (SEC File No. 333-87588);

the description of the 5.75% Senior Notes Due 2014 set forth under the caption Description of the Notes in the prospectus supplement dated March 3, 2004, and under the caption Description of the Debt Securities in the prospectus dated October 16, 2003, each filed with the SEC on March 5, 2004 (SEC File No. 333-107536);

the description of the 6.50% Senior Notes Due 2016 set forth under the caption Description of the Notes in the prospectus supplement dated February 3, 2006, and under the caption Description of the Debt Securities in the prospectus dated April 21, 2005, each filed with the SEC on February 6, 2006 (SEC File No. 333-121520);

the description of the 7.69% Notes Due 2025 set forth under the caption Description of New Securities in the prospectus and consent solicitation dated May 25, 1995, filed with the SEC on May 26, 1995 (SEC File No. 33-58919);

the description of the 7.50% Senior Notes Due 2033 set forth under the caption Description of the Notes in the prospectus supplement dated October 31, 2003, and under the caption Description of the Debt Securities in the prospectus dated October 16, 2003, each filed with the SEC on November 4, 2003 (SEC File No. 333-107536);

the description of the 7.19% Debentures Due 2015 set forth under the caption Description of the Notes in the prospectus supplement dated November 20, 1995, and under the caption Description of the Debt Securities in the prospectus dated November 17, 1995, each filed with the SEC on November 22, 1995 (SEC File No. 33-64105);

the description of the 7.50% Debentures Due 2023 set forth under the caption Description of the Securities in the prospectus supplement dated December 9, 1993, and under the caption Description of the Debt Securities in the prospectus dated November 22, 1993, each filed with the SEC on December 17, 1993 (SEC File No. 33-50985);

the description of the 8.36% Debentures Due 2024 set forth under the caption Description of the Debentures in the prospectus supplement dated April 20, 1994, and under the caption Description of the Debt Securities in the prospectus dated November 22, 1993, each filed with the SEC on April 21, 1994 (SEC File

No. 33-50985);

the description of the 7.05% Debentures Due 2027 set forth under the caption Description of the Debentures in the prospectus supplement dated December 5, 1995, and under the caption Description of the Debt Securities in the prospectus dated November 17, 1995, each filed with the SEC on December 7, 1995 (SEC File No. 33-64105);

the description of the 7.50% Debentures Due 2095 set forth under the caption Description of the Debentures in the prospectus supplement dated November 20, 1995, and under the caption

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Description of the Debt Securities in the prospectus dated November 17, 1995, each filed with the SEC on November 22, 1995 (SEC File No. 33-64105);

the description of the 8.70% Medium-Term Notes Due 2010 set forth in the Pricing Supplement, dated February 1, 1995, filed with the SEC on February 2, 1995 (SEC File No. 33-53409), and under the caption Description of Notes in the prospectus supplement dated July 11, 1994, and under the caption Description of the Debt Securities in the prospectus dated May 13, 1994, each filed with the SEC on July 12, 1994 (SEC File No. 33-53409);

the description of the 9.00% Medium-Term Notes Due 2014 set forth in the Pricing Supplement, dated January 12, 1995, filed with the SEC on January 13, 1995 (SEC File No. 33-53409), and under the caption Description of Notes in the prospectus supplement dated July 11, 1994, and under the caption Description of the Debt Securities in the prospectus dated May 13, 1994, each filed with the SEC on July 12, 1994 (SEC File No. 33-53409); and

the description of the 7.58% Medium-Term Notes Due 2025 set forth in the Pricing Supplement, dated September 11, 1995, filed with the SEC on September 13, 1995 (SEC File No. 33-53409), and under the caption Description of Notes in the prospectus supplement dated July 11, 1994, and under the caption Description of the Debt Securities in the prospectus dated May 13, 1994, each filed with the SEC on July 12, 1994 (SEC File No. 33-53409).

You may request a copy of these filings, at no cost, by writing or calling us at the following address or telephone number:

Corporate Secretary  
HCA Inc.  
One Park Plaza  
Nashville, Tennessee 37203  
(615) 344-9551



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**HCA INC.**

*The terms Company, HCA, we, our or us, as used herein, refer to HCA Inc. and its affiliates unless otherwise stated or indicated by context. The term affiliates means direct and indirect subsidiaries of HCA Inc. and partnerships and joint ventures in which such subsidiaries are partners.*

We are one of the leading health care services companies in the United States. At March 31, 2009, we operated 163 hospitals, comprised of 157 general, acute care hospitals; five psychiatric hospitals; and one rehabilitation hospital. The 163 hospital total includes eight hospitals (seven general, acute care hospitals and one rehabilitation hospital) owned by joint ventures in which an affiliate of HCA is a partner, and these joint ventures are accounted for using the equity method. In addition, we operated 105 freestanding surgery centers, eight of which are owned by joint ventures in which an affiliate of HCA is a partner, and these joint ventures are accounted for using the equity method. Our facilities are located in 20 states and England. For the year ended December 31, 2008, we generated revenues of \$28.374 billion and net income attributable to HCA Inc. of \$673 million, and for the three months ended March 31, 2009, we generated revenues of \$7.431 billion and net income attributable to HCA Inc. of \$360 million.

Our primary objective is to provide a comprehensive array of quality health care services in the most cost-effective manner possible. Our general, acute care hospitals typically provide a full range of services to accommodate such medical specialties as internal medicine, general surgery, cardiology, oncology, neurosurgery, orthopedics and obstetrics, as well as diagnostic and emergency services. Outpatient and ancillary health care services are provided by our general, acute care hospitals, freestanding surgery centers, diagnostic centers and rehabilitation facilities. Our psychiatric hospitals provide a full range of mental health care services through inpatient, partial hospitalization and outpatient settings.

We also provide a variety of management services to our health care facilities, including patient safety programs; ethics and compliance programs; national supply contracts; equipment purchasing and leasing contracts; accounting, financial and clinical systems; governmental reimbursement assistance; construction planning and coordination; information technology systems and solutions; legal counsel; human resources services; and internal audit services.

HCA Inc. was incorporated in Nevada in January 1990 and reincorporated in Delaware in September 1993. Our principal executive offices are located at One Park Plaza, Nashville, Tennessee 37203, and our telephone number is (615) 344-9551.

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**RISK FACTORS**

*You should carefully consider the risk factors set forth below as well as the risk factors incorporated herein by reference to our annual report on Form 10-K for the fiscal year ended December 31, 2008 (the 2008 10-K ) and our quarterly report on Form 10-Q for the quarter ended March 31, 2009 (the 2009 First Quarter 10-Q ) and the other information contained in this prospectus before purchasing the notes. This prospectus contains forward-looking statements that involve risks and uncertainties. Any of the following risks could materially and adversely affect our business, financial condition or results of operations. Additional risks and uncertainties not currently known to us or those we currently view to be immaterial may also materially and adversely affect our business, financial condition or results of operations. In such a case, you may lose all or part of your original investment.*

*As used herein, the senior secured credit facilities refer to, collectively, our senior secured cash flow credit facility, dated as of November 17, 2006, as amended on February 16, 2007, and as amended on March 2, 2009 (the cash flow credit facility ), and our senior secured asset-based revolving credit facility, dated as of November 17, 2006, as amended and restated as of June 20, 2007, and as amended on March 2, 2009 (the asset-based revolving credit facility ). We refer to the senior notes as those notes, debentures and medium-term notes issued under the indenture, dated as of December 16, 1993, as amended or supplemented, to the second lien notes as those notes issued under, collectively, the indenture dated as of November 17, 2006 and the indenture dated as of February 19, 2009, each as amended or supplemented, to the first lien notes as those notes issued under the indenture, dated as of April 22, 2009, as amended or supplemented, and to the senior secured notes as, collectively, the second lien notes and the first lien notes. We refer to the notes as, collectively, the senior notes and the senior secured notes. For a more detailed description of the notes and the indentures and agreements governing such notes, see Description of Notes.*

**Risks Related to Our Indebtedness**

***Our substantial leverage could adversely affect our ability to raise additional capital to fund our operations, limit our ability to react to changes in the economy or our industry, expose us to interest rate risk to the extent of our variable rate debt and prevent us from meeting our obligations.***

Since completing our recapitalization in November 2006 we are highly leveraged. As of March 31, 2009 our total indebtedness was \$26.567 billion. Our high degree of leverage could have important consequences, including:

increasing our vulnerability to downturns or adverse changes in general economic, industry or competitive conditions and adverse changes in government regulations;

requiring a substantial portion of cash flow from operations to be dedicated to the payment of principal and interest on our indebtedness, therefore reducing our ability to use our cash flow to fund our operations, capital expenditures and future business opportunities;

exposing us to the risk of increased interest rates as certain of our unhedged borrowings are at variable rates of interest;

limiting our ability to make strategic acquisitions or causing us to make nonstrategic divestitures;

limiting our ability to obtain additional financing for working capital, capital expenditures, product or service line development, debt service requirements, acquisitions and general corporate or other purposes; and

limiting our ability to adjust to changing market conditions and placing us at a competitive disadvantage compared to our competitors who are less highly leveraged.

We and our subsidiaries have the ability to incur additional indebtedness in the future, subject to the restrictions contained in our senior secured credit facilities and the indentures governing our outstanding notes. If new indebtedness is added to our current debt levels, the related risks that we now face could intensify.

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***We may not be able to generate sufficient cash to service all of our indebtedness and may not be able to refinance our indebtedness on favorable terms. If we are unable to do so, we may be forced to take other actions to satisfy our obligations under our indebtedness, which may not be successful.***

Our ability to make scheduled payments on or to refinance our debt obligations depends on our financial condition and operating performance, which are subject to prevailing economic and competitive conditions and to certain financial, business and other factors beyond our control. We cannot assure you that we will maintain a level of cash flows from operating activities sufficient to permit us to pay the principal, premium, if any, and interest on our indebtedness.

As of March 31, 2009, our substantial indebtedness included \$13.356 billion of indebtedness under our senior secured credit facilities that matures in 2012 and 2013, \$6.000 billion of second lien notes maturing in 2014, 2016 and 2017 and \$6.826 billion of unsecured senior notes and debentures that mature on various dates from 2009 to 2095 (including \$5.437 billion maturing through 2016). Because a significant portion of our indebtedness matures in the next few years, we may find it necessary or prudent to refinance that indebtedness with longer-maturity debt at a higher interest rate. In April 2009, for example, we issued \$1.500 billion of 8 1/2% Senior Secured Notes due 2019. We used the net proceeds of that offering to prepay term loans under our cash flow credit facility, which currently bears interest at a lower floating rate. Our ability to refinance our indebtedness on favorable terms, or at all, is directly affected by the current global economic and financial crisis. In addition, our ability to incur secured indebtedness (which may enable us to achieve better pricing than the incurrence of unsecured indebtedness) depends in part on the value of our assets, which depends, in turn, on the strength of our cash flows and results of operations, and on economic and market conditions and other factors.

If our cash flows and capital resources are insufficient to fund our debt service obligations or we are unable to refinance our indebtedness, we may be forced to reduce or delay investments and capital expenditures, or to sell assets, seek additional capital or restructure our indebtedness. These alternative measures may not be successful and may not permit us to meet our scheduled debt service obligations. If our operating results and available cash are insufficient to meet our debt service obligations, we could face substantial liquidity problems and might be required to dispose of material assets or operations to meet our debt service and other obligations. We may not be able to consummate those dispositions, or the proceeds from the dispositions may not be adequate to meet any debt service obligations then due.

***Our debt agreements contain restrictions that limit our flexibility in operating our business.***

Our senior secured credit facilities and the indentures governing our outstanding notes contain various covenants that limit our ability to engage in specified types of transactions. These covenants limit our and certain of our subsidiaries ability to, among other things:

incur additional indebtedness or issue certain preferred shares;

pay dividends on, repurchase or make distributions in respect of our capital stock or make other restricted payments;

make certain investments;

sell or transfer assets;

create liens;

consolidate, merge, sell or otherwise dispose of all or substantially all of our assets; and

enter into certain transactions with our affiliates.

Under our asset-based revolving credit facility, when (and for as long as) the combined availability under our asset-based revolving credit facility and our senior secured revolving credit facility is less than a specified amount for a certain period of time or, if a payment or bankruptcy event of default has occurred and is continuing, funds deposited into any of our depository accounts will be transferred on a daily basis into a

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blocked account with the administrative agent and applied to prepay loans under the asset-based revolving credit facility and to cash collateralize letters of credit issued thereunder.

Under our senior secured credit facilities, we are required to satisfy and maintain specified financial ratios. Our ability to meet those financial ratios can be affected by events beyond our control, and there can be no assurance that we will continue to meet those ratios. A breach of any of these covenants could result in a default under both our cash flow credit facility and our asset-based revolving credit facility. Upon the occurrence of an event of default under our senior secured credit facilities, our lenders could elect to declare all amounts outstanding under our senior secured credit facilities to be immediately due and payable and terminate all commitments to extend further credit. If we were unable to repay those amounts, the lenders under our senior secured credit facilities could proceed against the collateral granted to them to secure such indebtedness. We have pledged a significant portion of our assets as collateral under our senior secured credit facilities. If any of the lenders under our senior secured credit facilities accelerate the repayment of borrowings, we cannot assure you that we will have sufficient assets to repay our senior secured credit facilities and the notes.

## **Risks Related to the Notes**

***Your ability to transfer the notes may be limited by the absence of an active trading market, and there is no assurance that any active trading market for the notes exists or will continue.***

We do not intend to apply for a listing of the notes on a securities exchange or automated dealer quotation system. We cannot assure you as to the liquidity of markets that may develop for the notes, your ability to sell the notes or the price at which you would be able to sell the notes. No financial institution is obligated to make a market in any of the notes, and any financial institutions that do so may discontinue their market-making activities at any time without notice. Therefore, an active market for any of the notes, if developed, may not continue. Because Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated and their respective affiliates (collectively, the market makers ) may be considered affiliates of ours, they are required to deliver a current market-maker prospectus in connection with any secondary market sale of the notes, which may affect their ability to continue market-making activities. Historically, the market for non investment-grade debt has been subject to disruptions that have caused substantial volatility in the prices of securities similar to the notes. The market, if any, for any of the notes may not be free from similar disruptions and any such disruptions may adversely affect the prices at which you may sell your notes. In addition, the notes may trade at a discount from your purchase price, depending upon prevailing interest rates, the market for similar notes, our performance and other factors.

***If we default on our obligations to pay our indebtedness, we may not be able to make payments on the notes.***

Any default under the agreements governing our indebtedness, including a default under our senior secured credit facilities that is not waived by the required lenders or a default under any of the indentures governing the notes, and the remedies sought by the holders of such indebtedness, could prevent us from paying principal, premium, if any, and interest on the notes and substantially decrease the market value of the notes. If we are unable to generate sufficient cash flow and are otherwise unable to obtain funds necessary to meet required payments of principal, premium, if any, and interest on our indebtedness, or if we otherwise fail to comply with the various covenants, including financial and operating covenants, in the instruments governing our indebtedness (including covenants in our senior secured credit facilities and the indentures governing the notes), we could be in default under the terms of the agreements governing such indebtedness. In the event of such default, the holders of such indebtedness could elect to declare all the funds borrowed thereunder to be due and payable, together with accrued and unpaid interest, the lenders under our senior secured credit facilities could elect to terminate their commitments thereunder, cease making further loans and institute foreclosure proceedings against our assets, and we could be forced into bankruptcy or liquidation. If our operating performance declines, we may in the future need to obtain waivers from the required lenders under our

senior secured credit facilities to avoid being in default. If we breach our covenants under our senior secured credit facilities and seek a waiver, we may not be able to obtain a waiver from the required lenders. If

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this occurs, we would be in default under the instruments governing that indebtedness, the lenders could exercise their rights, as described above, and we could be forced into bankruptcy or liquidation.

***Federal and state fraudulent transfer laws may permit a court to void the notes, and with respect to the senior secured notes, the guarantees, and, if that occurs, you may not receive any payments on the notes.***

Federal and state fraudulent transfer and conveyance statutes may apply to the issuance of the notes and, with respect to the senior secured notes, the incurrence of the guarantees. Under federal bankruptcy law and comparable provisions of state fraudulent transfer or conveyance laws, which may vary from state to state, the notes or guarantees could be voided as a fraudulent transfer or conveyance if (1) we or any of the guarantors, as applicable, issued the notes or incurred the guarantees with the intent of hindering, delaying or defrauding creditors or (2) we or any of the guarantors, as applicable, received less than reasonably equivalent value or fair consideration in return for either issuing the notes or incurring the guarantees and, in the case of (2) only, one of the following is also true at the time thereof:

we or any of the guarantors, as applicable, were insolvent or rendered insolvent by reason of the issuance of the notes or the incurrence of the guarantees;

the issuance of the notes or the incurrence of the guarantees left us or any of the guarantors, as applicable, with an unreasonably small amount of capital to carry on the business;

we or any of the guarantors intended to, or believed that we or such guarantor would, incur debts beyond our or such guarantor's ability to pay as they mature; or

we or any of the guarantors was a defendant in an action for money damages, or had a judgment for money damages docketed against us or such guarantor if, in either case, after final judgment, the judgment was unsatisfied.

If a court were to find that the issuance of the notes or the incurrence of any guarantee were a fraudulent transfer or conveyance, the court could void the payment obligations under the notes or such guarantee or further subordinate the notes or such guarantee to presently existing and future indebtedness of ours or of the related guarantor, or require the holders of the notes to repay any amounts received with respect to such guarantee. In the event of a finding that a fraudulent transfer or conveyance occurred, you may not receive any repayment on the notes. Further, the voidance of the notes could result in an event of default with respect to our and our subsidiaries' other debt that could result in acceleration of such debt.

As a general matter, value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied. A debtor will generally not be considered to have received value in connection with a debt offering if the debtor uses the proceeds of that offering to make a dividend payment or otherwise retire or redeem equity securities issued by the debtor.

We cannot be certain as to the standards a court would use to determine whether or not we or the guarantors were solvent at the relevant time or, regardless of the standard that a court uses, that the issuance of the guarantees would not be further subordinated to our or any of our guarantors' other debt. Generally, however, an entity would be considered insolvent if, at the time it incurred indebtedness:

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



the present fair saleable value of its assets was less than the amount that would be required to pay its probable liability on its existing debts, including contingent liabilities, as they become absolute and mature; or  
it could not pay its debts as they become due.

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**Risks Related to the Senior Notes**

*The senior notes are unsecured and effectively junior to our secured indebtedness, including our senior secured credit facilities and our senior secured notes, to the extent of the value of the collateral securing such secured indebtedness.*

Our obligations under our senior notes are unsecured and are effectively junior to our secured indebtedness to the extent of the value of the collateral securing such secured indebtedness. Our senior secured credit facilities and our senior secured notes are collateralized by, among other things, the capital stock of any wholly owned first-tier subsidiary of our company or of any U.S. subsidiary guarantor, substantially all of our and the U.S. subsidiary guarantors' other tangible and intangible assets and accounts receivable of our company and certain of our domestic subsidiaries, subject to exceptions. Our senior secured credit facilities and the indentures governing our senior secured notes also permit us to incur additional secured indebtedness. The senior notes are effectively subordinated to all such secured indebtedness to the extent of the value of that collateral. If an event of default occurs under the senior secured credit facilities or under the indentures governing our senior secured notes, the holders of such senior secured indebtedness will have a prior right to our assets, to the exclusion of the holders of our senior notes, even if we are in default with respect to such notes. In that event, our assets would first be used to repay in full all indebtedness and other obligations secured by them (including all amounts outstanding under the senior secured credit facilities and the senior secured notes), resulting in all or a portion of our assets being unavailable to satisfy the claims of the holders of the senior notes and other unsecured indebtedness. Therefore, in the event of any distribution or payment of our assets in any foreclosure, dissolution, winding-up, liquidation, reorganization, or other bankruptcy proceeding, holders of the senior notes will participate in our remaining assets ratably with each other and with all holders of our unsecured indebtedness that is deemed to be of the same class as such notes, and potentially with all of our other general creditors, based upon the respective amounts owed to each holder or creditor. In any of the foregoing events, we cannot assure you that there will be sufficient assets to pay amounts due on the senior notes. As a result, holders of such notes may receive less, ratably, than holders of secured indebtedness.

As of March 31, 2009, on an as adjusted basis after giving effect to our offering of \$1.500 billion aggregate principal amount of first lien notes in April 2009 and the use of proceeds therefrom, we had outstanding an aggregate principal amount of \$19.855 billion of senior secured indebtedness. This senior secured indebtedness includes that outstanding under our senior secured credit facilities, including letters of credit, the senior secured notes, capital leases and other secured debt. We also had an additional \$2.198 billion available for borrowing under our senior secured revolving credit facilities after giving effect to certain outstanding letters of credit.

*Claims of holders of our senior notes will be structurally subordinate to claims of creditors of all of our subsidiaries that do not guarantee such notes.*

The senior notes are not guaranteed by any of our subsidiaries. Accordingly, claims of holders of the senior notes are structurally subordinate to the claims of creditors of these non-guarantor subsidiaries, including trade creditors. All obligations of our subsidiaries that do not guarantee the senior notes will have to be satisfied before any of the assets of such subsidiaries would be available for distribution, upon a liquidation or otherwise, to holders of the senior notes. In addition, the indentures governing the notes permit, subject to some limitations, these subsidiaries to incur additional indebtedness and do not contain limitations on the amount of certain other liabilities, such as trade payables, that may be incurred by these subsidiaries.

**Risks Related to the Senior Secured Notes**

***The value of the collateral securing the senior secured notes may not be sufficient to satisfy our obligations under such notes.***

No appraisal of the value of the collateral was made in connection with the offerings of each series of senior secured notes, and the fair market value of the collateral is subject to fluctuations based on factors that include, among others, general economic conditions and similar factors. The amount to be received upon a

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sale of the collateral would be dependent on numerous factors, including, but not limited to, the actual fair market value of the collateral at such time, the timing and the manner of the sale and the availability of buyers. By its nature, portions of the collateral may be illiquid and may have no readily ascertainable market value. In the event of a foreclosure, liquidation, bankruptcy or similar proceeding, the collateral may not be sold in a timely or orderly manner and the proceeds from any sale or liquidation of this collateral may not be sufficient to pay our obligations under the senior secured notes.

To the extent that liens securing obligations under the senior secured credit facilities, pre-existing liens, liens permitted under the indentures governing the senior secured notes and other rights, including liens on excluded assets, such as those securing purchase money obligations and capital lease obligations granted to other parties (in addition to the holders of any other obligations secured by higher-priority liens), encumber any of the collateral securing the senior secured notes and the guarantees, those parties have or may exercise rights and remedies with respect to the collateral that could adversely affect the value of the collateral and the ability of the collateral agents, the trustees or the holders of the senior secured notes to realize or foreclose on the collateral.

In addition, the senior secured notes and the related guarantees are not secured by any of the European collateral described under **Description of Other Indebtedness Senior Secured Credit Facilities Guarantee and Security**.

There may not be sufficient collateral to pay off all amounts we may borrow under our senior secured credit facilities, the existing senior secured notes and additional notes that we may offer that would be secured on the same basis as the existing senior secured notes. Consequently, liquidating the collateral securing the senior secured notes may not result in proceeds in an amount sufficient to pay any amounts due under such notes after also satisfying the obligations to pay any creditors with prior liens. In addition, we may be required to repay obligations under our cash flow credit facility with proceeds from a sale of assets before repaying the senior secured notes. If the proceeds of any sale of collateral are not sufficient to repay all amounts due on the senior secured notes, the holders of such notes (to the extent not repaid from the proceeds of the sale of the collateral) would have only a senior unsecured, unsubordinated claim against our and the subsidiary guarantors remaining assets.

***Claims of holders of our senior secured notes are structurally subordinate to claims of creditors of all of our non-U.S. subsidiaries and some of our U.S. subsidiaries because they do not guarantee such notes.***

The senior secured notes are not guaranteed by any of our non-U.S. subsidiaries, our less than wholly-owned U.S. subsidiaries or certain other U.S. subsidiaries. Accordingly, claims of holders of the senior secured notes are structurally subordinate to the claims of creditors of these non-guarantor subsidiaries, including trade creditors. All obligations of our non-guarantor subsidiaries will have to be satisfied before any of the assets of such subsidiaries would be available for distribution, upon a liquidation or otherwise, to us or a guarantor of the senior secured notes.

On an as adjusted basis after giving effect to our offering of \$1.500 billion aggregate principal amount of first lien notes in April 2009 and the use of proceeds therefrom, our non-guarantor subsidiaries would have accounted for approximately \$11.867 billion, or 41.8%, of our total revenues for the year ended December 31, 2008, approximately \$3.038 billion, or 40.9%, of our total revenues for the three months ended March 31, 2009, approximately \$9.876 billion, or 40.7%, of our total assets, and approximately \$7.517 billion, or 22.5%, of our total liabilities, in each case as of December 31, 2008, and approximately \$9.817 billion, or 40.4%, of our total assets, and approximately \$7.224 billion, or 21.9%, of our total liabilities, in each case as of March 31, 2009.

***There are circumstances other than repayment or discharge of the senior secured notes under which the collateral securing such notes and guarantees will be released automatically, without your consent or the consent of the applicable trustee.***

Under various circumstances, collateral securing the senior secured notes will be released automatically, including:

a sale, transfer or other disposal of such collateral in a transaction not prohibited under the indentures governing the senior secured notes;

with respect to collateral held by a guarantor, upon the release of such guarantor from its guarantee;

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with respect to collateral that is capital stock, upon the dissolution of the issuer of such capital stock in accordance with the indentures governing the senior secured notes;

with respect to any collateral in which the second lien notes have a second-priority or third-priority lien, upon any release by the lenders under our senior secured credit facilities of their first-priority or second-priority security interest in such collateral unless such release occurs in connection with a discharge in full in cash of first lien obligations, which discharge is not in connection with a foreclosure of, or other exercise of remedies with respect to, non-receivables collateral by the first lien secured parties (such discharge not in connection with any such foreclosure or exercise of remedies, a Payment Discharge ); provided that, in the case of a Payment Discharge, the lien on any non-receivables collateral disposed of in satisfaction in whole or in part of first lien obligations shall be automatically released but any proceeds thereof not used for purposes of the discharge of first lien obligations in full in cash or otherwise in accordance with the indentures governing the second lien notes shall be subject to a lien in favor of the collateral agent for the second lien noteholders;

with respect to any receivables collateral in which the first lien notes have a second-priority lien, upon any release by the lenders under our asset-based revolving credit facility of their first-priority security interest in such collateral; provided that, if the release occurs in connection with a foreclosure or exercise of remedies by the collateral agent for the lenders under our asset-based revolving credit facility, the lien on that collateral will be automatically released but any proceeds thereof not used to repay the obligations under our asset-based revolving credit facility will be subject to lien in favor of the collateral agent for the first lien noteholders and our cash flow credit facility; and

with respect to the collateral upon which the first notes have a first-priority lien, upon any release in connection with a foreclosure or exercise of remedies with respect to that collateral directed by the authorized representative of the lenders under our cash flow credit facility during any period that such authorized representative controls actions with respect to the collateral pursuant to the first lien intercreditor agreement. Even though the holders of the notes share ratably with the lenders under our cash flow credit facility, the authorized representative of the lenders under our cash flow credit facility will initially control actions with respect to the collateral, whether or not the holders of the first lien notes agree or disagree with those actions. See Risks Related to the First Lien Senior Secured Notes Even though the holders of the first lien notes have the benefit of a first-priority lien on the collateral that secures our cash flow credit facility, the representative of the lenders under the cash flow credit facility will initially control most actions with respect to that collateral.

In addition, the guarantee of a subsidiary guarantor will be automatically released to the extent it is released under the senior secured credit facilities or in connection with a sale of such subsidiary guarantor in a transaction not prohibited by the indentures.

The indentures governing the senior secured notes also permit us to designate one or more of our restricted subsidiaries that is a guarantor of the senior secured notes as an unrestricted subsidiary. If we designate a subsidiary guarantor as an unrestricted subsidiary for purposes of the indentures governing the senior secured notes, all of the liens on any collateral owned by such subsidiary or any of its subsidiaries and any guarantees of the notes by such subsidiary or any of its subsidiaries will be released under the indentures but not necessarily under our senior secured credit facilities. Designation of an unrestricted subsidiary will reduce the aggregate value of the collateral securing the notes to the extent that liens on the assets of the unrestricted subsidiary and its subsidiaries are released. In addition, the creditors of the unrestricted subsidiary and its subsidiaries will have a senior claim on the assets of such unrestricted subsidiary and its subsidiaries. See Description of Notes.

*We will in most cases have control over the collateral, and the sale of particular assets by us could reduce the pool of assets securing the senior secured notes and the guarantees.*

The collateral documents allow us to remain in possession of, retain exclusive control over, freely operate, and collect, invest and dispose of any income from, the collateral securing the senior secured notes and the

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guarantees, except, under certain circumstances, cash transferred to accounts controlled by the administrative agent under our asset-based revolving credit facility.

In addition, we are not required to comply with all or any portion of Section 314(d) of the Trust Indenture Act of 1939 (the Trust Indenture Act ) if we determine, in good faith based on advice of counsel, that, under the terms of that Section and/or any interpretation or guidance as to the meaning thereof of the SEC and its staff, including no action letters or exemptive orders, all or such portion of Section 314(d) of the Trust Indenture Act is inapplicable to the released collateral. For example, so long as no default or event of default under the indentures governing the senior secured notes would result therefrom and such transaction would not violate the Trust Indenture Act, we may, among other things, without any release or consent by the applicable trustees, conduct ordinary course activities with respect to collateral, such as selling, factoring, abandoning or otherwise disposing of collateral and making ordinary course cash payments (including repayments of indebtedness). See Description of Notes.

***The imposition of certain permitted liens will cause the assets on which such liens are imposed to be excluded from the collateral securing the senior secured notes and the guarantees. There are also certain other categories of property that are also excluded from the collateral.***

The indentures governing the senior secured notes permit liens in favor of third parties to secure additional debt, including purchase money indebtedness and capital lease obligations, and any assets subject to such liens will be automatically excluded from the collateral securing the senior secured notes and the guarantees. Our ability to incur purchase money indebtedness and capital lease obligations is subject to the limitations as described in Description of Notes. In addition, certain categories of assets are excluded from the collateral securing the senior secured notes and the guarantees. Excluded assets include the assets of our non-guarantor subsidiaries and equity investees, certain capital stock and other securities of our subsidiaries and equity investees, certain properties that do not secure our senior secured credit facilities, deposit accounts, other bank or securities accounts, cash, leaseholds and motor vehicles, and the proceeds from any of the foregoing. The assets excluded from the collateral for the second lien secured notes include the properties defined as principal properties under our indenture dated as of December 16, 1993, so long as that indenture remains in effect. Although the first lien secured notes share a lien on such principal properties, that lien is limited to securing a portion of the indebtedness under the senior secured notes and our cash flow credit facility that, in the aggregate, does not exceed 10% of our consolidated net tangible assets. See Description of Notes. If an event of default occurs and the senior secured notes are accelerated, such notes and the guarantees will rank equally with the holders of other unsubordinated and unsecured indebtedness of the relevant entity with respect to such excluded property.

On an as adjusted basis after giving effect to our offering of \$1.500 billion aggregate principal amount of first lien notes in April 2009 and the use of proceeds therefrom, our non-guarantor subsidiaries would have accounted for approximately \$9.817 billion, or 40.4%, of our total assets as of March 31, 2009.

***The pledge of the capital stock, other securities and similar items of our subsidiaries that secure the senior secured notes will automatically be released from the lien on them and no longer constitute collateral for so long as the pledge of such capital stock or such other securities would require the filing of separate financial statements with the SEC for that subsidiary.***

The senior secured notes and the guarantees are secured by a pledge of the stock of some of our subsidiaries. Under the SEC regulations in effect as of the issue date of the senior secured notes, if the par value, book value as carried by us or market value (whichever is greatest) of the capital stock, other securities or similar items of a subsidiary pledged as part of the collateral is greater than or equal to 20% of the aggregate principal amount of the senior secured notes then outstanding, such a subsidiary would be required to provide separate financial statements to the SEC. Therefore, the indentures governing the senior secured notes and the collateral documents provide that any capital stock and other



securities of any of our subsidiaries will be excluded from the collateral for so long as the pledge of such capital stock or other securities to secure the senior secured notes would cause such subsidiary to be required to file separate financial statements with the SEC pursuant to Rule 3-16 of Regulation S-X (as in effect from time to time).

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As a result, holders of the senior secured notes could lose a portion or all of their security interest in the capital stock or other securities of those subsidiaries during such period. It may be more difficult, costly and time-consuming for holders of the senior secured notes to foreclose on the assets of a subsidiary than to foreclose on its capital stock or other securities, so the proceeds realized upon any such foreclosure could be significantly less than those that would have been received upon any sale of the capital stock or other securities of such subsidiary. See Description of Notes.

***Your rights in the collateral may be adversely affected by the failure to perfect security interests in certain collateral in the future.***

Applicable law requires that certain property and rights acquired after the grant of a general security interest, such as real property, equipment subject to a certificate and certain proceeds, can only be perfected at the time such property and rights are acquired and identified. The trustees or the collateral agents for the senior secured notes may not monitor, or we may not inform the trustees or the collateral agents for the senior secured notes of, the future acquisition of property and rights that constitute collateral, and necessary action may not be taken to properly perfect the security interest in such after-acquired collateral. The collateral agents for the senior secured notes have no obligation to monitor the acquisition of additional property or rights that constitute collateral or the perfection of any security interest in favor of the senior secured notes against third parties. Such failure may result in the loss of the security interest therein or the priority of the security interest in favor of the senior secured notes against third parties.

***The collateral is subject to casualty risks.***

We intend to maintain insurance or otherwise insure against hazards in a manner appropriate and customary for our business. There are, however, certain losses that may be either uninsurable or not economically insurable, in whole or in part. Insurance proceeds may not compensate us fully for our losses. If there is a complete or partial loss of any of the pledged collateral, the insurance proceeds may not be sufficient to satisfy all of the secured obligations, including the senior secured notes and the guarantees.

***We may not be able to repurchase the senior secured notes upon a change of control.***

Upon the occurrence of specific kinds of change of control events, we will be required to offer to repurchase all outstanding senior secured notes at 101% of their principal amount plus accrued and unpaid interest. The source of funds for any such purchase of such notes will be our available cash or cash generated from our subsidiaries operations or other sources, including borrowings, sales of assets or sales of equity. We may not be able to repurchase the senior secured notes upon a change of control because we may not have sufficient financial resources to purchase all of the senior secured notes that are tendered upon a change of control. Further, we are contractually restricted under the terms of our senior secured credit facilities from repurchasing all of the notes tendered by holders upon a change of control. Accordingly, we may not be able to satisfy our obligations to purchase the senior secured notes unless we are able to refinance or obtain waivers under the instruments governing that indebtedness. Our failure to repurchase the senior secured notes upon a change of control would cause a default under the indentures governing the senior secured notes and a cross-default under the instruments governing our senior secured credit facilities. The instruments governing our senior secured credit facilities also provide that a change of control will be a default that permits lenders to accelerate the maturity of borrowings thereunder. Any of our future debt agreements may contain similar provisions.

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

The ability of holders of the senior secured notes to realize upon the collateral will be subject to certain bankruptcy law limitations in the event of our bankruptcy. Under applicable U.S. federal bankruptcy laws, secured creditors are

prohibited from repossessing their security from a debtor in a bankruptcy case without bankruptcy court approval and may be prohibited from disposing of security repossessed from such a debtor without bankruptcy court approval. Moreover, applicable federal bankruptcy laws generally permit the debtor

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to continue to retain collateral, including cash collateral, even though the debtor is in default under the applicable debt instruments, provided that the secured creditor is given adequate protection.

The meaning of the term adequate protection may vary according to the circumstances, but is intended generally to protect the value of the secured creditor's interest in the collateral at the commencement of the bankruptcy case and may include cash payments or the granting of additional security if and at such times as the court, in its discretion, determines that a diminution in the value of the collateral occurs as a result of the stay of repossession or the disposition of the collateral during the pendency of the bankruptcy case. In view of the lack of a precise definition of the term adequate protection and the broad discretionary powers of a U.S. bankruptcy court, we cannot predict whether or when the collateral agents and/or the trustees under the indentures which govern senior secured notes could foreclose upon or sell the collateral or whether or to what extent holders of senior secured notes would be compensated for any delay in payment or loss of value of the collateral through the requirement of adequate protection.

Moreover, the collateral agents for the senior secured notes may need to evaluate the impact of the potential liabilities before determining to foreclose on collateral consisting of real property, if any, because secured creditors that hold a security interest in real property may be held liable under environmental laws for the costs of remediating or preventing the release or threatened releases of hazardous substances at such real property. Consequently, the collateral agents for the senior secured notes may decline to foreclose on such collateral or exercise remedies available in respect thereof if they do not receive indemnification to their satisfaction from the holders of the senior secured notes.

***Certain series of senior secured notes were issued with original issue discount for U.S. federal income tax purposes.***

The 95/8%/103/8% senior secured toggle notes due 2016, the 97/8% senior secured notes due 2017 and the 81/2% senior secured notes due 2019 (collectively, the OID Notes) were issued with original issue discount (OID) for U.S. federal income tax purposes. Thus, in addition to stated interest on the OID Notes, U.S. holders (as defined in Certain U.S. Federal Tax Consequences) will be required to include amounts representing the OID in gross income on a constant yield to maturity basis in advance of the receipt of cash payment thereof, regardless of a U.S. holder's method of accounting for U.S. federal income tax purposes. With respect to the 95/8%/103/8% senior secured toggle notes due 2016, U.S. holders will be required to include such OID in gross income even if we do not pay cash interest. For more information about the U.S. federal income tax consequences of owning the OID Notes, see Certain U.S. Federal Tax Consequences.

***If a bankruptcy petition were filed by or against us, holders of the OID Notes may receive a lesser amount for their claim than they would have been entitled to receive under the indenture governing such notes.***

If a bankruptcy petition were filed by or against us under the U.S. Bankruptcy Code after the issuance of the OID Notes, the claim by any holder of the notes for the principal amount of the notes may be limited to an amount equal to the sum of:

the original issue price for such notes; and

that portion of the original issue discount that does not constitute unmatured interest for purposes of the U.S. Bankruptcy Code.

Any original issue discount that was not amortized as of the date of the bankruptcy filing would constitute unmatured interest. Accordingly, holders of the OID Notes under these circumstances may receive a lesser amount than they

would be entitled to receive under the terms of the indenture governing such notes, even if sufficient funds are available.

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**Risks Related to the Second Lien Senior Secured Notes**

*Other secured indebtedness, including our senior secured credit facilities and first lien notes, is effectively senior to the second lien notes to the extent of the value of the collateral securing such indebtedness on a higher priority basis.*

Our cash flow credit facility and our first lien notes are collateralized by a first-priority lien, subject to permitted liens, in, among other things, the capital stock of any wholly owned first-tier subsidiary of our company or of any U.S. subsidiary guarantor and substantially all of our and the U.S. subsidiary guarantors' other tangible and intangible assets, subject to exceptions. In addition, our asset-based revolving credit facility has a first-priority lien in the accounts receivable of our company and certain of our subsidiaries, and our first lien notes and our cash flow credit facility, other than the European term loan facility, have a second-priority lien in those receivables (except for those of certain special purpose subsidiaries that only guarantee and pledge their assets under our asset-based revolving credit facility). Our senior secured credit facilities and the indentures governing our senior secured notes also permit us to incur additional indebtedness secured on a first-priority basis by such assets in the future. The first- and second-priority liens in the collateral securing indebtedness under our senior secured credit facilities and our first lien notes, as the case may be, and any such future indebtedness is higher in priority as to such collateral than the security interests securing the second lien notes and the guarantees of such notes. The second lien notes and the related guarantees are secured, subject to permitted liens, by a second-priority lien or a third-priority lien, as the case may be, in the assets that secure our cash flow credit facility and first lien notes on a first-priority or second-priority basis, as the case may be. Holders of the indebtedness under our senior secured credit facilities, the first lien notes and any other indebtedness collateralized by a higher-priority lien in such collateral will be entitled to receive proceeds from the realization of value of such collateral to repay such indebtedness in full before the holders of the second lien notes will be entitled to any recovery from such collateral. As a result, holders of the second lien notes will only be entitled to receive proceeds from the realization of value of assets securing our senior secured credit facilities and first lien notes on a higher-priority basis after all indebtedness and other obligations under our senior secured credit facilities, first lien notes and any other obligations secured by higher-priority liens on such assets are repaid in full. The second lien notes are effectively junior in right of payment to indebtedness under our senior secured credit facilities, the first lien notes and any other indebtedness collateralized by a higher-priority lien in our assets, to the extent of the realizable value of such collateral. In addition, the indentures governing the second lien notes permit us to incur additional indebtedness secured by a lien that ranks equally with the second lien notes. Any such indebtedness may further limit the recovery from the realization of the value of such collateral available to satisfy holders of the second lien notes.

As of March 31, 2009, on an as adjusted basis after giving effect to our offering of \$1.500 billion aggregate principal amount of first lien notes in April 2009 and the use of proceeds therefrom, we had outstanding an aggregate principal amount of \$13.855 billion of senior secured indebtedness secured by liens ranking senior to those securing the second lien notes. This indebtedness includes that outstanding under our senior secured credit facilities, including letters of credit, the first lien notes, capital leases and other debt secured on a first priority basis. We also had an additional \$2.198 billion available for borrowing under our senior secured revolving credit facilities after giving effect to certain outstanding letters of credit.

*The lien ranking provisions of the indentures and other agreements relating to the collateral securing the second lien notes limit the rights of holders of such notes with respect to that collateral, even during an event of default.*

The rights of the holders of the second lien notes with respect to the collateral that secures the notes on a second-priority or third-priority basis, as the case may be, are substantially limited by the terms of the lien ranking agreements set forth in the indentures and the intercreditor agreements, even during an event of default. Under the indentures and the intercreditor agreements, at any time that obligations that have the benefit of the higher-priority

liens are outstanding, any actions that may be taken with respect to such collateral, including the ability to cause the commencement of enforcement proceedings against such collateral and to control the conduct of such proceedings, and the approval of amendments to, releases of such collateral from the lien of, and waivers of past defaults under, such documents relating to such collateral, will be at the

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direction of the holders of the obligations secured by the first-priority and second-priority liens, as applicable, and the holders of the notes secured by lower-priority liens may be adversely affected.

In addition, the indentures and the intercreditor agreements contain certain provisions benefiting holders of indebtedness under our senior secured credit facilities, including provisions requiring the second lien trustees and the second lien collateral agent not to object following the filing of a bankruptcy petition to a number of important matters regarding the collateral. After such filing, the value of this collateral could materially deteriorate, and holders of the second lien notes would be unable to raise an objection. In addition, the right of holders of obligations secured by first-priority and second-priority liens, as applicable, to foreclose upon and sell such collateral upon the occurrence of an event of default also would be subject to limitations under applicable bankruptcy laws if we or any of our subsidiaries become subject to a bankruptcy proceeding.

The collateral that secures the second lien notes and guarantees on a lower-priority basis will also be subject to any and all exceptions, defects, encumbrances, liens and other imperfections as may be accepted by the lenders under our senior secured credit facilities, the holders of our first lien notes and other creditors that have the benefit of higher-priority liens on such collateral from time to time, whether on or after the date the second lien notes and guarantees are issued. The existence of any such exceptions, defects, encumbrances, liens and other imperfections could adversely affect the value of the collateral securing the second lien notes as well as the ability of the second lien collateral agent to realize or foreclose on such collateral.

***The lenders under our senior secured credit facilities will have the discretion to release the guarantors under the instruments governing that indebtedness in a variety of circumstances, which will cause those guarantors to be released from their guarantees of the second lien notes.***

While any obligations under our senior secured credit facilities remain outstanding, any guarantee of the second lien notes may be released without action by, or consent of, any holder of the second lien notes or the trustees under the indentures governing the second lien notes, at the discretion of lenders under our senior secured credit facilities, if the related guarantor is no longer a guarantor of obligations under that indebtedness or any other indebtedness. See

Description of Notes. The lenders under our senior secured credit facilities will have the discretion to release the guarantees under the senior secured credit facilities in a variety of circumstances. You will not have a claim as a creditor against any subsidiary that is no longer a guarantor of the second lien notes, and the indebtedness and other liabilities, including trade payables, whether secured or unsecured, of those subsidiaries will effectively be senior to claims of holders of such notes.

## **Risks Related to the First Lien Senior Secured Notes**

***The secured indebtedness under our senior secured asset-based revolving credit facility is effectively senior to the first lien notes to the extent of the value of the receivables collateral securing such facility on a first-priority basis.***

Our asset-based revolving credit facility has a first-priority lien in the accounts receivable of our company and our domestic subsidiaries, with certain exceptions. Our other senior secured credit facilities have, and our first lien notes have, a second-priority lien in those receivables (except for those of certain special purpose subsidiaries that only guarantee and pledge their assets under our asset-based revolving credit facility). The indentures governing both the second lien notes and the first lien notes permit us to incur additional indebtedness secured on a first-priority basis by such assets in the future. The first-priority liens in the collateral securing indebtedness under our asset-based revolving credit facility and any such future indebtedness is higher in priority as to such collateral than the security interests securing the first lien notes and the guarantees. Holders of the indebtedness under our asset-based revolving credit facility and any other indebtedness secured by higher priority liens on such collateral will be entitled to receive proceeds from the realization of value of such collateral to repay such indebtedness in full before the holders of the



first lien notes will be entitled to any recovery from such collateral. As a result, holders of the first lien notes will only be entitled to receive proceeds from the realization of value of assets securing our asset-based revolving credit facility on a higher priority basis after all indebtedness and other obligations under our asset-based revolving credit facility and any other obligations secured by higher priority liens on such assets are repaid in full. The

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first lien notes are effectively junior in right of payment to indebtedness under our asset-based revolving credit facility and any other indebtedness secured by higher priority liens on such collateral to the extent of the realizable value of such collateral. Even if there were receivables collateral or proceeds left over to pay the first lien notes and the cash flow credit facility after a foreclosure on that collateral and payment of the outstanding amounts under the asset-based revolving credit facility, that collateral would be subject to the first lien intercreditor agreement, and the representative of the lenders under the cash flow credit facility would initially control actions with respect to that collateral. See

Even though the holders of the first lien notes have the benefit of a first-priority lien on the collateral that secures our cash flow credit facility, the representative of the lenders under the cash flow credit facility will initially control actions with respect to that collateral.

As of March 31, 2009, the first lien notes would have been effectively junior to \$1.715 billion of indebtedness outstanding under our asset-based revolving credit facility to the extent of the value of collateral securing such indebtedness.

***The lien ranking provisions of the indenture and other agreements relating to the collateral securing the first lien notes limit the rights of holders of the first lien notes with respect to that collateral, even during an event of default.***

The rights of the holders of the first lien notes with respect to the receivables collateral that secures the asset-based revolving credit facility on a first-priority basis and that secures our cash flow credit facility and the first lien notes on a second-priority basis are substantially limited by the terms of the lien ranking agreements set forth in the indenture governing the first lien notes and the applicable receivables intercreditor agreement, even during an event of default. Under the indenture governing the first lien notes and the applicable receivables intercreditor agreement, at any time that obligations that have the benefit of the higher priority liens are outstanding, any actions that may be taken with respect to such collateral, including the ability to cause the commencement of enforcement proceedings against such collateral, to control the conduct of such proceedings and to approve amendments to releases of such collateral from the lien of, and waive past defaults under, such documents relating to such collateral, will be at the direction of the holders of the obligations secured by the first-priority liens, and the holders of the first lien notes secured by lower-priority liens may be adversely affected.

In addition, the indenture governing the first lien notes and the applicable receivables intercreditor agreement contain certain provisions benefiting holders of indebtedness under our asset-based revolving credit facility, including provisions requiring the trustee and the collateral agent for the first lien notes not to object following the filing of a bankruptcy petition to certain important matters regarding the receivables collateral. After such filing, the value of this collateral could materially deteriorate, and holders of the first lien notes would be unable to raise an objection.

The receivables collateral that secures the first lien notes and guarantees on a lower-priority basis will also be subject to any and all exceptions, defects, encumbrances, liens and other imperfections as may be accepted by the lenders under our asset-based revolving credit facility, whether on or after the date the first lien notes and guarantees were issued. The existence of any such exceptions, defects, encumbrances, liens and other imperfections could adversely affect the value of the collateral securing the first lien notes, as well as the ability of the collateral agent to realize or foreclose on such collateral.

***Even though the holders of the first lien notes have the benefit of a first-priority lien on the collateral that secures our cash flow credit facility, the representative of the lenders under the cash flow credit facility will initially control actions with respect to that collateral.***

The rights of the holders of the first lien notes with respect to the collateral that secures such notes on a first-priority basis are subject to a first lien intercreditor agreement among all holders of obligations secured by that collateral on a first-priority basis, including the obligations under our cash flow credit facility. Under that intercreditor agreement,

any actions that may be taken with respect to such collateral, including the ability to cause the commencement of enforcement proceedings against such collateral, to control such proceedings

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and to approve amendments to releases of such collateral from the lien of, and waive past defaults under, such documents relating to such collateral, will be at the direction of the authorized representative of the lenders under the cash flow credit facility until (1) our obligations under the cash flow credit facility are discharged (which discharge does not include certain refinancings of the cash flow credit facility) or (2) 90 days after the occurrence of an event of default under the indenture governing the first lien notes, if the authorized representative of the holders of the first lien notes represents the largest outstanding principal amount of indebtedness secured by a first-priority lien on the collateral (other than the cash flow credit facility) and has complied with the applicable notice provisions.

However, even if the authorized representative of the first lien notes gains the right to direct the collateral agent in the circumstances described in clause (2) above, the authorized representative must stop doing so (and those powers with respect to the collateral would revert to the authorized representative of the lenders under the cash flow credit facility) if the lenders' authorized representative has commenced and is diligently pursuing enforcement action with respect to the collateral or the grantor of the security interest in that collateral (whether our company or the applicable subsidiary guarantor) is then a debtor under or with respect to (or otherwise subject to) an insolvency or liquidation proceeding.

In addition, the senior secured credit facilities and the indenture governing the first lien notes permit us to issue additional series of notes that also have a first-priority lien on the same collateral. At any time that the representative of the lenders under the cash flow credit facility does not have the right to take actions with respect to the collateral pursuant to the first lien intercreditor agreement, that right passes to the authorized representative of the holders of the next largest outstanding principal amount of indebtedness secured by a first-priority lien on the collateral. If we issue additional first lien notes in the future in a greater principal amount than the existing first lien notes, then the authorized representative for those additional notes would be next in line to exercise rights under the first lien intercreditor agreement, rather than the authorized representative for the existing first lien notes.

Under the first lien intercreditor agreement, the authorized representative of the holders of the first lien notes may not object following the filing of a bankruptcy petition to any debtor-in-possession financing or to the use of the shared collateral to secure that financing, subject to conditions and limited exceptions. After such a filing, the value of this collateral could materially deteriorate, and holders of the first lien notes would be unable to raise an objection.

The collateral that secures the first lien notes and guarantees on a first-priority basis will also be subject to any and all exceptions, defects, encumbrances, liens and other imperfections as may be accepted by the authorized representative of the lenders under our cash flow credit facility during any period that such authorized representative controls actions with respect to the collateral pursuant to the first lien intercreditor agreement. The existence of any such exceptions, defects, encumbrances, liens and other imperfections could adversely affect the value of the collateral securing the first lien notes as well as the ability of the collateral agent to realize or foreclose on such collateral for the benefit of the holders of the first lien notes.

## **FORWARD-LOOKING STATEMENTS**

This prospectus and the documents incorporated herein by reference contain forward-looking statements within the meaning of the federal securities laws, which involve risks and uncertainties. Forward-looking statements include all statements that do not relate solely to historical or current facts, and you can identify forward-looking statements because they contain words such as believes, expects, may, will, should, seeks, approximately, intends, estimates, projects, continue, initiative or anticipates or similar expressions that concern our prospects, objective strategies, plans or intentions. All statements made relating to our estimated and projected earnings, margins, costs, expenditures, cash flows, growth rates and financial results or to the impact of existing or proposed laws or regulations described, or incorporated by reference, in this prospectus are forward-looking statements. These forward-looking statements are subject to risks and uncertainties that may change at any time, and, therefore, our actual results may differ materially from those expected. We derive many of our forward-looking statements from our

operating budgets and forecasts, which are based upon many detailed assumptions. While we believe that our assumptions are

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reasonable, it is very difficult to predict the impact of known factors, and, of course, it is impossible to anticipate all factors that could affect our actual results.

Some of the important factors that could cause actual results to differ materially from our expectations are disclosed under **Risk Factors** and elsewhere in this prospectus as well as in our 2008 10-K and 2009 First Quarter 10-Q incorporated herein by reference. All subsequent written and oral forward-looking statements attributable to us, or persons acting on our behalf, are expressly qualified in their entirety by these cautionary statements.

We do not undertake any obligation to publicly update or revise any forward-looking statement as a result of new information, future events or otherwise, except as otherwise required by law.

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**USE OF PROCEEDS**

This prospectus is delivered in connection with the sale of notes by Banc of America Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated and their affiliates in market-making transactions. We will not receive any of the proceeds from such transactions.

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**DESCRIPTION OF OTHER INDEBTEDNESS**

**Senior Secured Credit Facilities**

On November 17, 2006 in connection with our recapitalization, we entered into the senior secured credit facilities with Banc of America Securities LLC, J.P. Morgan Securities Inc., Citigroup Global Markets Inc. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as joint lead arrangers and bookrunners, Bank of America, N.A., as administrative agent, JPMorgan Chase Bank, N.A. and Citicorp North America, Inc., as co-syndication agents and Merrill Lynch Capital Corporation, as documentation agent.

The senior secured credit facilities provide senior secured financing of \$16.800 billion, consisting of:

\$12.800 billion-equivalent in term loan facilities, comprised of a \$2.750 billion senior secured term loan A facility with a term of six years, a \$8.800 billion senior secured term loan B facility with a term of seven years and a 1.000 billion (\$1.250 billion) senior secured European term loan facility with a term of seven years; and

\$4.000 billion in revolving credit facilities, comprised of a \$2.000 billion senior secured asset-based revolving credit facility available in dollars with a term of six years and a \$2.000 billion senior secured revolving credit facility available in dollars, euros and pounds sterling with a term of six years. Availability under the asset-based revolving credit facility is subject to a borrowing base of 85% of eligible accounts receivable less customary reserves.

We refer to these senior secured credit facilities, excluding the asset-based revolving credit facility, as the cash flow credit facility and, collectively with the asset-based revolving credit facility, the senior secured credit facilities.

HCA Inc. is the primary borrower under the senior secured credit facilities, except that a U.K. subsidiary is the borrower under the European term loan facility. The revolving credit facilities include capacity available for the issuance of letters of credit and for borrowings on same-day notice, referred to as the swingline loans. A portion of the letter of credit availability under the cash-flow revolving credit facility is available in euros, dollars and pounds sterling. Lenders under the cash flow credit facility are subject to a loss sharing agreement pursuant to which, upon the occurrence of certain events, including a bankruptcy event of default under the cash flow credit facility, each such lender will automatically be deemed to have exchanged its interest in a particular tranche of the cash flow credit facility for a pro rata percentage in all of the tranches of the cash flow credit facility.

The asset-based revolving credit facility is documented in a separate loan agreement from the other senior secured credit facilities.

On February 16, 2007, we amended our cash flow credit facility to reduce the applicable margins with respect to the term borrowings thereunder. On June 20, 2007, we amended our asset-based revolving credit facility to reduce the applicable margin with respect to borrowings thereunder.

On March 2, 2009, we amended our cash flow credit facility to allow for one or more future issuances of additional secured notes, which may include notes that are secured on a pari passu basis or on a junior basis with the obligations under the cash flow credit facility, so long as (1) such notes do not require, subject to certain exceptions, scheduled repayments, payment of principal or redemption prior to the scheduled term loan B maturity date as currently in effect, (2) the terms of such notes, taken as a whole, are not more restrictive than those in the cash flow credit facility and (3) the proceeds from any such issuance are used within three business days of receipt to permanently prepay term



loans under the cash flow credit facility in accordance with the terms of the cash flow credit facility. The U.S. security documents related to the cash flow credit facility were also amended and restated or, in the case of the U.S. mortgages, will be amended and restated, in connection with the amendment in order to give effect to the security interests to be granted to holders of such additional secured notes.

On March 2, 2009, we also amended our asset-based revolving credit facility to allow for one or more future issuances of additional secured notes or loans, which may include notes or loans that are secured on a

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pari passu basis or on a junior basis with the obligations under the cash flow credit facility, so long as (1) such notes or loans do not require, subject to certain exceptions, scheduled repayments, payment of principal or redemption prior to the scheduled term loan B final maturity date as currently in effect, (2) the terms of such notes or loans, as applicable, taken as a whole, are not more restrictive than those in the cash flow credit facility and (3) the proceeds from any such issuance are used within three business days of receipt to permanently prepay term loans under the cash flow credit facility in accordance with the terms of the cash flow credit facility. The amendment to the asset-based revolving credit facility also altered the excess facility availability requirement to include a separate minimum facility availability requirement applicable to the asset-based revolving credit facility and increased the applicable LIBOR and asset-based revolving margins for all borrowings under the asset-based revolving credit facility by 0.25% each.

On June 18, 2009, we amended our cash flow credit facility to permit the unlimited incurrence of new term loans under the cash flow credit facility ( refinancing term loans ) to refinance the term loans initially incurred in November 2006 under the cash flow credit facility (the initial term loans ) as well as any previously incurred refinancing term loans (collectively, with the initial term loans, the then-existing term loans ), and to permit the establishment of commitments under a replacement cash flow revolver under the cash flow credit facility ( replacement revolver ) to replace all or a portion of the revolving commitments initially established in November 2006 under the cash flow credit facility (the initial revolver ) as well as any previously issued replacement revolvers, in each case, subject to the terms described below. The amendment to the cash flow credit facility further permits the maturity date of any then-existing term loan to be extended (any such loans so extended, the extended term loans ).

As to refinancing term loans, the amendment to the cash flow credit facility provides that: (1) the proceeds from such refinancing term loans be used to repay in full the initial term loans before being used to repay any previously issued refinancing term loans; (2) the refinancing term loans mature later than the latest maturity date of any of the initial term loans; and (3) the weighted average life to maturity for the refinancing term loans be greater than the remaining weighted average life to maturity of the tranche B term loan under the cash flow credit facility measured at the time such refinancing term loans are incurred.

As to replacement revolvers, the amendment to the cash flow credit facility provides that the terms of such replacement revolver be substantially identical to the commitments being replaced, other than with respect to maturity and pricing.

As to extended term loans, the amendment to the cash flow credit facility provides that: (1) any offer to extend must be made to all lenders under the term loan being extended, and, if such offer is oversubscribed, the extension will be allocated ratably to the lenders according to the respective amounts then held by the accepting lenders; (2) any term loan or portion thereof extended shall be a new class of term loans; and (3) extended term loans will not share in mandatory prepayments resulting from the creation or issuance of refinancing term loans and/or first lien notes until the initial term loans are repaid in full but will share in other mandatory prepayments such as those from asset sales.

Any refinancing term loans and any obligations under replacement revolvers will have a *pari passu* claim on the collateral securing the initial term loans and the initial revolver.

See also our 2008 10-K under Item 13. Certain Relationships and Related Transactions for a description of certain relationships between our company and Bank of America, N.A., the administrative agent under the cash flow credit facility and the asset-based revolving credit facility.

## ***Interest Rate and Fees***

Borrowings under the senior secured credit facilities bear interest at a rate equal to, at our option, either (a) LIBOR for deposits in the applicable currency plus an applicable margin or (b) the higher of (1) the prime rate of Bank of

America, N.A. and (2) the federal funds effective rate plus 0.50%, plus an applicable margin. The applicable margins currently in effect for borrowings are (w) under the asset-based revolving credit facility, 0.50% with respect to base rate borrowings and 1.50% with respect to LIBOR borrowings, (x) under the senior secured revolving credit facility and the term loan B facility, 1.25% with respect to base rate

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borrowings and 2.25% with respect to LIBOR borrowings, (y) under the term loan A facility, 1.00% with respect to base rate borrowings and 2.00% with respect to LIBOR borrowings and (z) under the European term loan facility, 2.00% with respect to LIBOR borrowings. The applicable margins may be reduced or increased depending on our leverage ratios.

In addition to paying interest on outstanding principal under the senior secured credit facilities, we are required to pay a commitment fee to the lenders under the revolving credit facilities in respect of the unutilized commitments thereunder. The initial commitment fee rate is 0.50% per annum for the revolving credit facility and 0.375% for the asset-based revolving credit facility. Each of these commitment fee rates may be reduced subject to our reducing our leverage to specified ratios. We must also pay customary letter of credit fees.

***Prepayments***

The cash flow credit facility requires us to prepay outstanding term loans, subject to certain exceptions, with:

50% (which percentage will be reduced to 25% if our total leverage ratio is 5.50x or less and to 0% if our total leverage ratio is 5.00x or less) of our annual excess cash flow;

100% of the net cash proceeds of all nonordinary course asset sales or other dispositions of property, other than the Receivables Collateral, as defined below, if we do not (1) reinvest or commit to reinvest those proceeds in assets to be used in our business or to make certain other permitted investments within 15 months as long as, in the case of any such commitment to reinvest or make certain other permitted investments, such investment is completed within such 15-month period or, if later, within 180 days after such commitment is made or (2) apply such proceeds within 15 months to repay debt of HCA Inc. that was outstanding on the effective date of the Merger scheduled to mature prior to the earliest final maturity of the senior secured credit facilities then outstanding; and

100% of the net cash proceeds of any incurrence of debt, other than proceeds from the receivables facilities and other debt permitted under the senior secured credit facilities.

The foregoing mandatory prepayments are applied among the term loan facilities (1) during the first three years after the effective date of the Merger, pro rata to such facilities based on the respective aggregate amounts of unpaid principal installments thereof due during such period, with amounts allocated to each facility being applied to the remaining installments thereof in direct order of maturity and (2) thereafter, pro rata to such facilities, with amounts allocated to each facility being applied, in the case of the term loan A facility, pro rata to the remaining installments thereof and, in the case of the term loan B facility or the European term loan facility, to the next eight unpaid scheduled installments of principal of such facility and then pro rata to the remaining amortization payments under such facility. Notwithstanding the foregoing, (i) proceeds of asset sales by foreign subsidiaries are applied solely to prepay European term loans until such term loans have been repaid in full and (ii) we are not required to prepay loans under the term loan A facility or the term loan B facility with net cash proceeds of asset sales or with excess cash flow, in each case attributable to foreign subsidiaries, to the extent that the repatriation of such amounts is prohibited or delayed by applicable local law or would result in material adverse tax consequences.

The asset-based revolving credit facility requires us to prepay outstanding loans if borrowings exceed the borrowing base.

We may voluntarily repay outstanding loans under the senior secured credit facilities at any time without premium or penalty, other than customary breakage costs with respect to LIBOR loans.

*Amortization*

We are required to repay the loans under the term loan facilities as follows:

the term loan A facility amortizes in quarterly installments such that the aggregate amount of the original funded principal amount of such facility repaid pursuant to such amortization payments in each

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year, commencing with the year ending December 31, 2007, is equal to \$112.5 million in years 1 and 2, \$225 million in years 3 and 4, \$450 million in year 5 and \$1.625 billion in year 6; and

each of the term loan B facility and the European term loan facility amortizes in equal quarterly installments that commenced on March 31, 2007 in aggregate annual amounts equal to 1% of the original funded principal amount of such facility, with the balance being payable on the final maturity date of such term loans.

Principal amounts outstanding under the revolving credit facilities are due and payable in full at maturity, six years from the date of the closing of the senior secured credit facilities.

***Guarantee and Security***

All obligations under the senior secured credit facilities are unconditionally guaranteed by substantially all existing and future, direct and indirect, wholly-owned material domestic subsidiaries that are Unrestricted Subsidiaries under the 1993 Indenture (except for certain special purpose subsidiaries that only guarantee and pledge their assets under the asset-based revolving credit facility), and the obligations under the European term loan facility are also unconditionally guaranteed by HCA Inc. and each of our existing and future wholly owned material subsidiaries formed under the laws of England and Wales, subject, in each of the foregoing cases, to any applicable legal, regulatory or contractual constraints and to the requirement that such guarantee does not cause adverse tax consequences.

All obligations under the asset-based revolving credit facility, and the guarantees of those obligations, are secured, subject to permitted liens and other exceptions, by a first-priority lien on substantially all of the receivables of the borrowers and each guarantor under such asset-based revolving credit facility (the Receivables Collateral ).

All obligations under the cash flow credit facility and the guarantees of such obligations, are secured, subject to permitted liens and other exceptions, by:

a first-priority lien on the capital stock owned by HCA Inc. or by any U.S. guarantor in each of their respective first-tier subsidiaries (limited, in the case of foreign subsidiaries, to 65% of the voting stock of such subsidiaries);

a first-priority lien on substantially all present and future assets of HCA Inc. and of each U.S. guarantor other than (i) Principal Properties (as defined in the 1993 Indenture), except for certain Principal Properties the aggregate amount of indebtedness secured thereby in respect of the cash flow credit facility and the notes offered hereby and any future First Lien Obligations, taken as a whole, do not exceed 10% of Consolidated Net Tangible Assets (as defined under the 1993 Indenture), (ii) certain other real properties and (iii) deposit accounts, other bank or securities accounts, cash, leaseholds, motor-vehicles and certain other exceptions (such collateral under this and the preceding bullet, the Non-Receivables Collateral ); and

a second-priority lien on certain of the Receivables Collateral (such portion of the Receivables Collateral, the Shared Receivables Collateral ; the Receivables Collateral that does not secure such cash flow credit facility on a second-priority basis is referred to as the Separate Receivables Collateral ).

The obligations of the borrowers and the guarantors under the European term loan facility are also secured by substantially all present and future assets of the European subsidiary borrower and each European guarantor (the European Collateral ), subject to permitted liens and other exceptions (including, without limitation, exceptions for deposit accounts, other bank or securities accounts, cash, leaseholds, motor-vehicles and certain other exceptions) and subject to such security interests otherwise being permitted by applicable law and contract and not resulting in adverse

tax consequences. The notes offered hereby will not be secured by any of the European Collateral.

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***Certain Covenants and Events of Default***

The senior secured credit facilities contain a number of covenants that, among other things, restrict, subject to certain exceptions, our ability to:

incur additional indebtedness;

create liens;

enter into sale and leaseback transactions;

engage in mergers or consolidations;

sell or transfer assets;

pay dividends and distributions or repurchase our capital stock;

make investments, loans or advances;

prepay certain subordinated indebtedness (including the notes and certain other indebtedness existing on the effective date of the Merger ( Retained Indebtedness )), subject to exceptions for repayments of Retained Indebtedness maturing prior to the senior secured credit facilities and, in certain cases, to satisfaction of a maximum first-lien leverage condition;

make certain acquisitions;

engage in certain transactions with affiliates;

amend material agreements governing certain subordinated indebtedness (including the senior secured second-lien notes offered hereby); and

change our lines of business.

In addition, the senior secured credit facilities require us to maintain the following financial covenants:

in the case of the asset-based revolving credit facility, a minimum interest coverage ratio (applicable only when availability under such facility is less than 10% of the borrowing base thereunder); and

in the case of the other senior secured credit facilities, a maximum total leverage ratio.

The senior secured credit facilities also contain certain customary affirmative covenants and events of default, including a change of control.

**Existing Indebtedness**

***Existing Senior Notes, Debentures and Medium-Term Notes***

As of March 31, 2009, we had outstanding an aggregate principal amount of \$6.296 billion and £122 million of senior notes and debentures, consisting of the following series:



\$3,488,000 aggregate principal amount of 5.50% Senior Notes due 2009;  
\$440,020,000 aggregate principal amount of 8.75% Senior Notes due 2010;  
£122, 259,000 aggregate principal amount of 8.75% Senior Notes due 2010;  
\$273,321,000 aggregate principal amount of 7.875% Senior Notes due 2011;  
\$402,499,000 aggregate principal amount of 6.95% Senior Notes due 2012;  
\$500,000,000 aggregate principal amount of 6.30% Senior Notes due 2012;  
\$500,000,000 aggregate principal amount of 6.25% Senior Notes due 2013;  
\$500,000,000 aggregate principal amount of 6.75% Senior Notes due 2013;  
\$500,000,000 aggregate principal amount of 5.75% Senior Notes due 2014;

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\$750,000,000 aggregate principal amount of 6.375% Senior Notes due 2015;  
\$1,000,000,000 aggregate principal amount of 6.50% Senior Notes due 2016;  
\$291,436,000 aggregate principal amount of 7.69% Notes due 2025;  
\$250,000,000 aggregate principal amount of 7.50% Senior Notes due 2033;  
\$150,000,000 aggregate principal amount of 7.19% Debentures due 2015;  
\$135,645,000 aggregate principal amount of 7.50% Debentures due 2023;  
\$150,000,000 aggregate principal amount of 8.36% Debentures due 2024;  
\$150,000,000 aggregate principal amount of 7.05% Debentures due 2027;  
\$100,000,000 aggregate principal amount of 7.75% Debentures due 2036; and  
\$200,000,000 aggregate principal amount of 7.50% Debentures due 2095.

As of March 31, 2009, we also had outstanding \$121,180,000 aggregate principal amount of our 8.70% Medium-Term Notes due 2010; \$121,110,000 aggregate principal amount of our 9.00% Medium-Term Notes due 2014; and \$125,000,000 aggregate principal amount of our 7.58% Medium-Term Notes due 2025.

All of our outstanding series of senior notes, debentures and medium-term notes were issued under the 1993 Indenture. The terms of the 1993 Indenture governing the existing senior notes, debentures and medium-term notes provide that in addition to customary events of default and a customary covenant limiting mergers and consolidations of HCA, the aggregate amount of all other indebtedness of HCA secured by mortgages on Principal Properties (as such term is defined in the indenture) together with the aggregate principal amount of all indebtedness of restricted subsidiaries (as such term is defined in the indenture) and the attributable debt in respect of sale-leasebacks of Principal Properties, may not exceed 15% of the consolidated net tangible assets of HCA and its consolidated subsidiaries, subject to exceptions for certain permitted mortgages and debt. See Description of Notes Senior Notes, Debentures and Medium-Term Notes Issued Under the 1993 Indenture.

***Existing Senior Secured Notes***

Also in connection with the Recapitalization, we issued \$4.200 billion of senior secured notes (comprised of \$1.000 billion of 91/8% notes due 2014 and \$3.200 billion of 91/4% notes due 2016) and \$1.500 billion of 95/8/103/8% senior secured toggle notes (which allow us, at our option, to pay interest in kind during the first five years at the higher interest rate of 103/8%) due 2016. See Description of Notes Senior Secured Notes Issued Under the 2006 Indenture.

As of March 31, 2009, we had outstanding an aggregate principal amount of \$5.700 billion of senior secured notes consisting of the following series:

\$1,000,000,000 aggregate principal amount of 91/8% Senior Secured Notes due 2014;  
\$3,200,000,000 aggregate principal amount of 91/4% Senior Secured Notes due 2016; and

\$1,500,000,000 aggregate principal amount of 95/8/103/8% Senior Secured Toggle Notes due 2016.

In November 2008, we elected to make an interest payment on the senior secured toggle notes for the interest period ending in May 2009 by paying in kind ( PIK ) at the PIK interest rate of 103/8% instead of paying interest in cash. On May 15, 2009, the aggregate principal amount of the senior secured toggle notes increased by \$77,813,000 as a result of the PIK interest payment.

On February 19, 2009, we issued \$310 million aggregate principal amount of 97/8% senior secured notes due 2017 at a price of 96.673% of their face value, resulting in approximately \$300 million of gross proceeds. These notes and the related guarantees are secured by second-priority liens, subject to permitted liens, on our and our subsidiary guarantors' assets, subject to certain exceptions, that secure our cash flow credit facility on a first-priority basis and are secured by third-priority liens, subject to permitted liens, on our and our

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subsidiary guarantors' assets that secure our asset-based revolving credit facility on a first priority basis and our other cash flow credit facility on a second-priority basis. See "Description of Notes - Senior Secured Notes Issued Under the 2009 Second Lien Indenture."

On April 22, 2009 we issued \$1.500 billion aggregate principal amount of 81/2% senior secured notes due 2019 at a price of 96.755% of their face value, resulting in approximately \$1.451 billion of gross proceeds. These notes and the related guarantees are secured by first-priority liens, subject to permitted liens, on our and our subsidiary guarantors' assets, subject to certain exceptions, that secure our cash flow credit facility on a first-priority basis and are secured by second priority liens, subject to permitted liens, on our and our subsidiary guarantors' assets that secure our asset-based revolving credit facility on a first priority basis and our other cash flow credit facility on a second-priority basis. See "Description of Notes - Senior Secured Notes Issued Under the 2009 First Lien Indenture."

### ***Other Existing Secured Indebtedness***

We had outstanding approximately \$385 million of capital leases and other secured debt as of March 31, 2009.

Under our lease with HRT of Roanoke, Inc., effective December 20, 2005, we make annual payments for rent and additional expenses for the use of premises in Roanoke and Salem, Virginia. The rent payments will increase each year beginning January 1, 2007 by the lesser of 3% or the change in the Consumer Price Index. The lease is for a fixed-term of 12 years with the option to extend the lease for another ten years.

Under our lease with Medical City Dallas Limited, effective March 18, 2004, we make annual payments for rent for the use of premises that are a part of a complex known as "Medical City Dallas" located in Dallas, Texas. The rent payment is adjusted yearly based on the fair market value of the premises and a capitalization rate. The initial term is 240 months with the option to extend for two more terms of 240 months each.

## **DESCRIPTION OF NOTES**

We have issued senior debt securities, debentures and medium-term notes, each as described below under "Senior Notes, Debentures and Medium-Term Notes Issued Under the 1993 Indenture" and senior secured notes as described under "Senior Secured Notes Issued Under the 2006 Indenture," "Senior Secured Notes Issued Under the 2009 Second Lien Indenture" and "Senior Secured Notes Issued Under the 2009 First Lien Indenture." The terms used in each respective section apply only to that section, and the summaries contained therein are qualified in their entirety by the actual text of the applicable agreements and indentures, each of which are filed as an exhibit to the registration statement, of which this prospectus is a part or which may be requested by contacting us at the address set forth under "Where You Can Find More Information about HCA Inc."

### **Senior Notes, Debentures and Medium-Term Notes Issued Under the 1993 Indenture**

#### **General**

The below description of the debt securities begins with a summary of certain of the terms of the Indenture. Following that summary, specific securities and relevant terms are listed, divided into two categories of debt securities issued: (a) notes and debentures and (b) medium-term notes. Each series of these debt securities has been issued under the Indenture, dated as of December 16, 1993, between Columbia Healthcare Corporation and The First National Bank of Chicago, as Trustee, as supplemented or amended by the First Supplemental Indenture, dated as of May 25, 2000, between the Issuer and Bank One Trust Company, N.A., as Trustee, the Second Supplemental Indenture, dated as of July 1, 2001, between the Issuer and Bank One Trust Company, N.A., as Trustee, the Third Supplemental Indenture, dated as of December 5, 2001, between the Issuer and The Bank of New York, and the Fourth Supplemental

Indenture, dated as of November 14, 2006, between the Company and The Bank of New York, as Trustee ( *Trustee* )  
(as may be further amended or supplemented, the *Indenture* ).

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**Ranking**

The debt securities are our senior unsecured obligations and rank equally in right of payment to any of our existing and future senior indebtedness, are senior in right of payment to all of our existing and future subordinated indebtedness, are effectively subordinated in right of payment to our secured obligations to the extent of the value of the collateral securing such obligations and are structurally subordinated in right of payment to all existing and future indebtedness of our subsidiaries that do not guarantee the debt securities. In a liquidation or reorganization of any of our subsidiaries, the right of holders of the debt securities to participate in any distribution is subject to the prior claims of creditors of that subsidiary, except to the extent that we are a creditor.

**Limitations on Us and Our Subsidiaries**

***Limitation on Mortgages***

The Indenture provides that neither we nor any of our subsidiaries will issue, assume or guarantee any indebtedness or obligation secured by mortgages, liens, pledges or other encumbrances (referred to collectively as mortgages ) upon any principal property (as defined below under Certain Definitions ), unless the debt securities shall be secured equally and ratably with (or prior to) such debt. This restriction will not apply to:

mortgages securing the purchase price or cost of construction of property or additions, substantial repairs, alterations or improvements, if the debt and the mortgages are incurred within 18 months of the acquisition or completion of construction and full operation or additions, repairs, alterations or improvements;

mortgages existing on property at the time of its acquisition by us or our subsidiary or on the property of a corporation at the time of the acquisition of such corporation by us or our subsidiary;

mortgages to secure debt on which the interest payments are exempt from federal income tax under Section 103 of the Internal Revenue Code;

mortgages in favor of us or a consolidated subsidiary;

mortgages existing on the date of the Indenture;

certain mortgages to governmental entities;

mortgages incurred in connection with the borrowing of funds used to repay debt within 120 days in the same principal amount secured by other mortgages on principal property with at least the same appraised fair market value;

mortgages incurred within 90 days (or any longer period, not in excess of one year, as permitted by law) after acquisition of the related property or equipment arising solely in connection with the transfer of tax benefits in accordance with Section 168(f)(8) of the Internal Revenue Code; and

any extension, renewal or replacement of any mortgage referred to above, provided the amount secured is not increased and it relates to the same property.

***Limitation on Sale and Lease-Back Transactions***

The Indenture provides that neither we nor any subsidiary will enter into any sale and lease-back transaction with respect to any principal property involving a lease of more than three years with another person (other than our company or a subsidiary) unless either:

we or our subsidiary could incur indebtedness secured by a mortgage on the property to be leased; or

within 120 days, we apply the greater of the net proceeds of the sale of the leased property or the fair value of the leased property, as determined by our chief financial officer (less the principal amount of any debt securities delivered within 120 days for retirement or cancellation or other funded debt voluntarily retired within 120 days) to the voluntary retirement of our long-term funded debt or the acquisition or construction of a principal property.

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***Limitation on Subsidiary Debt and Preferred Stock***

The Indenture provides that none of our restricted subsidiaries may, directly or indirectly, create, incur, issue, assume or otherwise become liable with respect to, extend the maturity of, or become responsible for the payment of, any debt or preferred stock except:

debt outstanding on the date of the Indenture; or

debt representing the assumption by one restricted subsidiary of debt of another;

debt or preferred stock of any corporation or partnership existing when it becomes a subsidiary;

debt of a restricted subsidiary arising from agreements providing for indemnification, adjustment of purchase price or similar obligations or from guarantees, letters of credit, surety bonds or performance bonds securing any of our obligations or those of our subsidiaries incurred or assumed in connection with the disposition of any business, property or subsidiary, except for the purpose of financing an acquisition, provided that the maximum aggregate liability does not exceed the gross proceeds from the disposition;

debt of a restricted subsidiary in respect of performance, surety and other similar bonds, bankers acceptances and letters of credit provided in the ordinary course of business;

debt secured by a mortgage incurred to finance the purchase price or cost of construction of property or additions, substantial repairs, alterations or improvements, if the mortgage and debt are incurred within 18 months of the later of the acquisition or completion of construction and full operation or additions, repairs, alterations or improvements and the mortgage does not relate to any other property;

permitted subsidiary refinancing debt (as defined below under **Certain Definitions** );

debt, including guarantees, of a restricted subsidiary to us or another subsidiary as long as we hold it; or

any obligation pursuant to a permitted sale and lease-back transaction.

***Exempted Transactions***

Even if otherwise prohibited by these limitations, if the aggregate outstanding principal amount of all our other debt and that of our subsidiaries subject to these limitations does not exceed 15% of our consolidated net tangible assets, then:

we or any of our subsidiaries may issue, assume or guarantee debt secured by mortgages;

we or any of our subsidiaries may enter into any sale and lease-back transaction; and

any restricted subsidiary may issue, assume or become liable for any debt or preferred stock.

**Events of Default**

Under the Indenture, an event of default applicable to the debt securities of any series means:



failure to pay the principal or any premium on any debt securities of that series when due;

failure to pay any interest on any debt securities of that series when due, continued for 30 days;

failure to deposit any sinking fund payment in respect of any debt securities of that series when due;

failure to perform, or the breach of, any of our other applicable covenants or warranties in the Indenture, continued for 60 days after written notice;

events in bankruptcy, insolvency or reorganization; and

any other event of default provided with respect to debt securities of that series.

If any event of default with respect to debt securities of any series occurs and is continuing, either the Trustee or the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that

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series may declare the principal amount, or in the case of discount securities, the applicable portion of the principal amount, of all the debt securities of that series to be due and payable immediately. The holders may, under certain circumstances, rescind and annul this acceleration prior to obtaining a judgment or decree.

Other than the duties of the Trustee during a default to act with the required standard of care, the Trustee is not obligated to exercise any of its rights or powers under the Indenture at the request or direction of any of the holders unless the holders shall have offered to the Trustee reasonable indemnity. Subject to these indemnification provisions and certain other conditions described in the Indenture, the holders of a majority in aggregate principal amount of the outstanding debt securities of any series may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to the debt securities of that series.

We will furnish the Trustee annually with a statement as to our performance of our obligations under the Indenture and as to any default in our performance.

## **Modification and Waiver**

We and the Trustee may modify and amend the Indenture with the consent of the holders of a majority in aggregate principal amount of the outstanding debt securities of each series affected voting separately. We must have the consent of the holder of each outstanding debt security affected to:

- change the stated maturity of the principal of, or any installment of interest on, any debt security;
- reduce the principal, premium or interest on any debt security;
- reduce the amount of principal of discount securities payable upon acceleration of the maturity;
- change the currency of payment of principal, premium or interest on any debt security;
- impair the right to institute suit for the enforcement of any payment on or with respect to any debt securities; or
- reduce the percentage of holders of any series whose consent is required for modification or amendment of the Indenture or for waiver of compliance with certain provisions of the Indenture or certain defaults.

The holders of a majority in aggregate principal amount of the outstanding debt securities of each series may, on behalf of all holders of that series, waive any past default under the Indenture with respect to debt securities of that series. However, such holders may not waive a past default in the payment of principal, premium or interest, or any sinking fund installment with respect to the debt securities, or waive a covenant or provision that cannot be modified or amended without the consent of the holders of each outstanding debt security affected.

We and the Trustee may modify and amend the Indenture without the consent of the holders of the debt securities to, among other things:

- evidence the succession of another corporation to our company;
- add to the covenants for the benefit of the holders or surrender any right or power conferred upon our company;
- add additional events of default;

secure the debt securities;

supplement the Indenture to the extent necessary to permit or facilitate defeasance and discharge of any series of debt securities; *provided* that this action does not adversely affect the holders of debt securities in any material respect;

establish the form and terms of debt securities of any new series;

provide for a successor trustee or for co-trustees;

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cure any ambiguity, correct or supplement any provision of the Indenture that may be defective or inconsistent with any other provision, or make any other provisions that are not inconsistent with any provision of the Indenture; *provided* that those other provisions do not adversely affect the interests of the holders of outstanding debt securities of any series in any material respect; or

change any place where principal, premium (if any) and interest is payable, where debt securities may be surrendered for registration, transfer or exchange or where notices or demands on our company may be served.

## **Consolidation, Merger, Sale or Lease of Assets**

We may consolidate with or merge into, or transfer or lease our assets substantially as an entirety to any corporation without the consent of the holders of any of the outstanding debt securities under the Indenture if:

the successor corporation is a corporation organized under the laws of the United States, any state there of or the District of Columbia and expressly assumes our obligations on the debt securities and under the Indenture;

after giving effect to the transaction, no event of default, and no event which, after notice or lapse of time or both, would become an event of default, shall have occurred and be continuing;

if, as a result of the transaction, our company would become subject to a mortgage, pledge, lien, security interest or other encumbrance that would not be permitted by the Indenture, we or the successor corporation will secure the debt securities equally and ratably with (or prior to) all indebtedness secured thereby; and

we have delivered to the Trustee an officers' certificate and an opinion of counsel stating that the transaction complies with the Indenture and that all conditions precedent have been complied with.

## **Defeasance**

If so specified in the terms of any series of debt securities, we may be discharged from all obligations under the debt securities of any series, and we will not be subject to the limitations in the Indenture discussed in the above sections (known as legal defeasance) or we may cease to be under any obligation to comply with specified covenants in the Indenture (known as covenant defeasance), if (1) we deposit with the Trustee trust money or U.S. government obligations that are sufficient to pay all principal, premium and interest on the debt securities of the series and certain other conditions are met. We would deliver to the Trustee an opinion of counsel to the effect that the deposit and related defeasance would not (1) cause the holders of the debt securities of the series to recognize income, gain or loss for United States income tax purposes or (2) result in the delisting of the debt securities from any national securities exchange (if so listed).

## **Optional Redemption**

If the terms of any series of debt securities (other than the £150,000,000 in aggregate principal amount of 8.75% Senior Notes Due 2010, which are discussed below under the heading "Provisions that Apply Only to the £150,000,000 8.75% Senior Notes Due 2010") indicate that they are redeemable at the option of our company, the debt securities of that series will be redeemable, at our option, at any time in whole, or in part from time to time, at a redemption price equal to the greater of (1) 100% of the principal amount of the notes to be redeemed or (2) the sum of the present values of the remaining scheduled payments of principal and interest on the notes to be redeemed (exclusive of interest accrued to the date of redemption) discounted to the date of redemption on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the then current Treasury Rate (as defined below),

plus the number of basis points specified in the terms of the debt securities. In each case, we will pay accrued and unpaid interest on the principal amount being redeemed to the date of redemption.

We will mail notice of any redemption between 30 and 60 days preceding the redemption date to each holder of the debt securities to be redeemed.

The notice of the redemption for such debt securities will state, among other things, the principal amount of the debt securities to be redeemed, the redemption price and the place or places that payment will be made upon presentation and surrender of the debt securities to be redeemed.

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Unless we default in payment of the redemption price, on and after the redemption date, interest will cease to accrue on the debt securities or portions called for redemption.

***Method for Determining the Treasury Rate for any Optional Redemption of the 5.50% Senior Notes due 2009, the 6.30% Senior Notes due 2012, the 6.25% Senior Notes due 2013, the 6.75% Senior Notes due 2013, the 5.75% Senior Notes due 2014, the 6.375% Senior Notes due 2015, the 6.50% Senior Notes due 2016 and the 7.50% Senior Notes due 2033***

With respect to each of the series of redeemable debt securities listed above, for the purposes of determining the applicable redemption price, Treasury Rate and the other defined terms listed below have the respective meanings assigned to them in this subsection.

*Treasury Rate* means, with respect to any redemption date, the rate per year equal to: (1) the yield under the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated H.15(519) or any successor publication which is published weekly by the Board of Governors of the Federal Reserve System and which establishes yields on actively traded United States Treasury securities adjusted to constant maturity under the caption Treasury Constant Maturities, for the maturity corresponding to the Comparable Treasury Issue; *provided that*, if no maturity is within three months before or after the Remaining Life of the notes to be redeemed, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue shall be determined and the Treasury Rate shall be interpolated or extrapolated from those yields on a straight line basis, rounding to the nearest month; or (2) if such release (or any successor release) is not published during the week preceding the calculation date or does not contain such yields, the rate per year equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date. The Treasury Rate shall be calculated on the third business day preceding the redemption date.

*Comparable Treasury Issue* means the United States Treasury security selected by an Independent Investment Banker and having a maturity comparable to the remaining term of the debt securities to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of such debt securities.

*Remaining Life* means the maturity of a United States Treasury security selected by an Independent Investment Banker that is comparable to the remaining term of such debt securities.

*Independent Investment Banker* means one of the Reference Treasury Dealers appointed by the Trustee after consultation with us.

*Comparable Treasury Price* means, with respect to any redemption date, (a) the average of the Reference Treasury Dealer Quotations for the redemption date, after excluding the highest and lowest Reference Treasury Dealer Quotations, or (b) if the Trustee obtains fewer than four Reference Treasury Dealer Quotations, the average of all the quotations.

*Reference Treasury Dealer Quotations* means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by the Reference Treasury Dealer at 5:00 p.m. on the third business day preceding the redemption date.

*Reference Treasury Dealer* means each of the financial institutions specified in the terms of the securities and their respective successors; *provided however*, that if any of the foregoing shall cease to be a primary U.S. government securities dealer in New York City (a *Primary Treasury Dealer* ), we shall substitute another Primary Treasury Dealer.

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***Method for Determining the Treasury Rate for any Optional Redemption of the 8.75% Senior Notes due 2010, the 7.875% Senior Notes due 2011, the 6.95% Senior Notes due 2012 and the 7.19% Debentures due 2015***

With respect to each of the series of redeemable debt securities listed above, for the purposes of determining the applicable redemption price, Treasury Rate and the other defined terms listed below have the respective meanings assigned to them in this subsection.

*Treasury Rate* means, with respect to any redemption date, the rate per annum equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for the redemption date.

*Comparable Treasury Issue* means the United States Treasury security selected by an Independent Investment Banker and having a maturity comparable to the remaining term of the debt securities to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of such debt securities.

*Independent Investment Banker* means one of the Reference Treasury Dealers appointed by the Trustee after consultation with us, except that with respect to the 7.19% Debentures due 2015, such term means Morgan Stanley & Co. Incorporated or, if such firm is unwilling or unable to select the Comparable Treasury Issue, an independent banking institution of national standing appointed by the Trustee.

*Comparable Treasury Price* means, with respect to any redemption date, (1) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third business day preceding the redemption date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York and designated Composite 3:30 p.m. Quotations for U.S. Government Securities or (2) if the release (or any successor release) is not published or does not contain the prices on that business day, (a) the average of the Reference Treasury Dealer Quotations for the redemption date, after excluding the highest and lowest Reference Treasury Dealer Quotations, or (b) if the Trustee obtains fewer than four Reference Treasury Dealer Quotations, the average of all the quotations.

*Reference Treasury Dealer Quotations* means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by the Reference Treasury Dealer at 5:00 p.m. on the third business day preceding the redemption date.

*Reference Treasury Dealer* means each of the financial institutions specified in the terms of the securities and their respective successors; *provided however*, that if any of the foregoing shall cease to be a primary U.S. Government securities dealer in New York City (a *Primary Treasury Dealer*), we shall substitute another Primary Treasury Dealer.

**Provisions that Apply Only to the £150,000,000 8.75% Senior Notes Due 2010**

***Optional Redemption of the £150,000,000 8.75% Senior Notes Due 2010***

The £150,000,000 in aggregate principal amount of 8.75% Senior Notes Due 2010 (the *2010 Pounds Sterling Notes*) will be redeemable as a whole or in part, at our option, at any time after November 1, 2003, at a redemption price equal to the greater of (1) 100% of the principal amount of such notes and (2) as determined by the Calculation Agent, the price at which the Gross Redemption Yield on the outstanding principal amount of the notes on the Reference Date is equal to the Gross Redemption Yield (determined by reference to the middle-market price) at 3:00 p.m. (London time) on that date on the Benchmark Gilt, plus 50 basis points, in either case, plus accrued and



unpaid interest on the notes up to, but excluding, the date specified as the redemption date (the *Redemption Price* ).

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*Gross Redemption Yield* means a yield calculated on the basis indicated by the Joint Index and Classification Committee of the Institute and Faculty of Actuaries as reported in the Journal of the Institute of Actuaries, Vol. 105, Part 1, 1978, page 18 or on such other basis as the Trustee may approve.

*Reference Date* means the date which is the first dealing day in London prior to the publication of the notice of redemption referred to below.

*Benchmark Gilt* means the 5.75% Treasury Stock due December 7, 2009 or such other United Kingdom government stock as the Calculation Agent may, with the advice of three brokers and/or United Kingdom gilt-edged market makers or such other three persons operating in the United Kingdom gilt-edged market as the Calculation Agent may determine from time to time to be the most appropriate benchmark United Kingdom government stock for the notes.

*Calculation Agent* means Deutsche Bank AG London or any successor entity.

We will give notice of any redemption between 30 and 60 days preceding the redemption date to each holder of the notes to be redeemed.

In the case of any partial redemption, selection of the notes for redemption will be made by the Trustee in compliance with the requirements of the principal securities exchange, if any, on which the notes are listed or, if the notes are not so listed or such exchange prescribes no method of selection, on a pro rata basis, by lot or by such other method as the Trustee in its sole discretion shall deem to be fair and appropriate, although no note of £1,000 in original principal amount or less shall be redeemed in part. If any note is to be redeemed in part only, the notice of redemption relating to the note shall state the portion of the principal amount thereof to be redeemed. A new note in principal amount equal to the unredeemed portion thereof will be issued and delivered to the Trustee, or its nominee, or, in the case of notes in definitive form, issued in the name of the holder thereof, in each case upon cancellation of the original note.

Unless we default in payment of the Redemption Price, on and after the redemption date, interest will cease to accrue on the notes or portions called for redemption.

***Tax Redemption of the £150,000,000 8.75% Senior Notes Due 2010***

The 2010 Pounds Sterling Notes may be redeemed at our option, in whole but not in part, at a redemption price equal to 100% of the principal amount of the notes to be redeemed, together with interest accrued and unpaid to the date fixed for redemption, at any time, on giving not less than 30 nor more than 60 days notice, which notice shall be irrevocable, if:

we have or will become obliged to pay Additional Amounts (as defined under *Additional Amounts* below) as a result of any change in or amendment to the laws, regulations or rulings of the United States or any political subdivision or any taxing authority of or in the United States affecting taxation, or any change in or amendment to an official application, interpretation, administration or enforcement of such laws, regulations or rulings, which change or amendment is announced or becomes effective on or after November 1, 2000; or

any action shall have been taken by a taxing authority, or any action has been brought in a court of competent jurisdiction, in the United States or any political subdivision or taxing authority of or in the United States, including any of those actions specified in the first bullet point above, whether or not such action was taken or brought with respect to our company, or any change, clarification, amendment, application or interpretation of such laws, regulations or rulings shall be officially proposed, in any such case, on or after October 25, 2000, which results in a substantial likelihood that we will be required to pay Additional Amounts on the next interest

payment date.

However, no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which we would be, in the case of a redemption for the reasons specified in the first bullet point above, or there would be a substantial likelihood that we would be, in the case of a redemption for the reasons specified in the second bullet point above, obligated to pay such Additional Amounts if a payment in respect of the notes were then due.

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Prior to the publication of any notice of redemption pursuant to this subsection, we will deliver to the Trustee:

a certificate signed by one of our duly authorized officers stating that we are entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to our right so to redeem have occurred; and

a written opinion of independent legal counsel of recognized standing to the effect that we have or will become obligated to pay such Additional Amounts as a result of such change or amendment or that there is a substantial likelihood that we will be required to pay such Additional Amounts as a result of such action or proposed change, clarification, amendment, application or interpretation, as the case may be.

Such notice, once delivered by us to the Trustee, will be irrevocable.

***Additional Amounts***

All payments of principal and interest in respect of the 2010 Pounds Sterling Notes will be made without deduction or withholding for or on account of any present or future taxes, duties, assessments or other governmental charges of whatsoever nature imposed, levied, collected, withheld or assessed by the United States or any political subdivision or taxing authority of or in the United States, unless such withholding or deduction is required by law.

In the event such withholding or deduction is required by law, subject to the limitations described below, we will pay as additional interest on the notes to the holder or beneficial owner of any note who is a non-U.S. holder (as defined below), such additional amounts ( *Additional Amounts* ) as may be necessary in order that every net payment by us or any paying agent of principal of or interest on the notes (including upon redemption), after deduction or withholding for or on account of any present or future tax, duty, assessment or other governmental charge imposed upon or as a result of such payment by the United States or any political subdivision or taxing authority of or in the United States, will not be less than the amount provided for in such note to be then due and payable before any such tax, duty, assessment or other governmental charge.

However, our obligation to pay Additional Amounts shall not apply to:

(a) any tax, duty, assessment or other governmental charge which would not have been so imposed but for:

(1) the existence of any present or former connection between such holder or beneficial owner (or between a fiduciary, settlor, beneficiary, member or shareholder or other equity owner of, or a person having a power over, such holder or beneficial owner, if such holder or beneficial owner is an estate, a trust, a limited liability company, a partnership, a corporation or other entity) and the United States, including, without limitation, such holder or beneficial owner (or such fiduciary, settlor, beneficiary, member, shareholder or other equity owner or person having such a power) being or having been a citizen or resident or treated as a resident of the United States or being or having been engaged in a trade or business in the United States or being or having been present in the United States or having had a permanent establishment in the United States;

(2) the failure of such holder or beneficial owner to comply with any requirement under United States tax laws and regulations to establish entitlement to a partial or complete exemption from such tax, duty, assessment or other governmental charge (including, but not limited to, the requirement to provide Internal Revenue Service Forms W-8BEN, Forms W-8ECI, or any subsequent versions thereof or successor thereto); or

(3) such holder's or beneficial owner's present or former status as a personal holding company or a foreign personal holding company with respect to the United States, as a controlled foreign corporation with respect to the United

States, as a passive foreign investment company with respect to the United States, as a private foundation or other tax exempt organization with respect to the United States or as a corporation which accumulates earnings to avoid United States federal income tax;

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(b) any tax, duty, assessment or other governmental charge imposed by reason of the holder or beneficial owner:

(1) owning or having owned, directly or indirectly, actually or constructively, 10% or more of the total combined voting power of all classes of HCA Inc.'s stock;

(2) being a bank receiving interest described in section 881(c)(3)(A) of the Internal Revenue Code; or

(3) being a controlled foreign corporation with respect to the United States that is related to HCA Inc. by stock ownership;

(c) any tax, duty, assessment or other governmental charge which would not have been so imposed but for the presentation by the holder or beneficial owner of such note for payment on a date more than 30 days after the date on which such payment became due and payable or the date on which payment of the note is duly provided for and notice is given to holders, whichever occurs later, except to the extent that the holder or beneficial owner would have been entitled to such additional amounts on presenting such note on any date during such 30-day period;

(d) any estate, inheritance, gift, sales, transfer, personal property, wealth, interest equalization or similar tax, assessment or other governmental charge;

(e) any tax, duty, assessment or other governmental charge which is payable otherwise than by withholding from payment of principal of or interest on such note;

(f) any tax, duty, assessment or other governmental charge which is payable by a holder that is not the beneficial owner of the note, or a portion of the note, or that is a fiduciary, partnership, limited liability company or other similar entity, but only to the extent that a beneficial owner, a beneficiary or settlor with respect to such fiduciary or member of such partnership, limited liability company or similar entity would not have been entitled to the payment of an additional amount had such beneficial owner, settlor, beneficiary or member received directly its beneficial or distributive share of the payment;

(g) any tax, duty, assessment or other governmental charge required to be withheld by any paying agent from any payment of principal of or interest on any note, if such payment can be made without such withholding by any other paying agent; or

(h) any combination of items (a), (b), (c), (d), (e), (f) and (g).

For purposes of this subsection, the holding of or the receipt of any payment with respect to a note will not constitute a connection (1) between the holder or beneficial owner and the United States or (2) between a fiduciary, settlor, beneficiary, member or shareholder or other equity owner of, or a person having a power over, such holder or beneficial owner, if such holder or beneficial owner is an estate, a trust, a limited liability company, a partnership, a corporation or other entity, and the United States or any political subdivision or taxing authority thereof or therein.

Any reference in this prospectus, in the Indenture or in the notes to principal or interest with respect to the 2010 Pounds Sterling Notes shall be deemed to refer also to Additional Amounts which may be payable under the provisions of this subsection.

We will pay all stamp and other duties, if any, which may be imposed by the United States or any political subdivision thereof or taxing authority therein with respect to the issuance of the notes.

Except as specifically provided in the notes, we will not be required to make any 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 the United States.

Unless previously redeemed or repurchased and cancelled, the notes will be payable at par, including Additional Amounts, if any, on November 1, 2010 or such earlier date on which the applicable notes shall be due and payable in accordance with the terms and conditions of the applicable notes. However, if the maturity date of the applicable notes is not a Business Day, the notes will be payable on the next succeeding business day and no interest shall accrue for the period from the maturity date to such payment date.

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For purposes of the 2010 Pounds Sterling Notes, a *non-U.S. holder* is a beneficial owner of the notes that is not a U.S. holder. A *U.S. holder* is a beneficial owner of the notes that is for United States federal income tax purposes:

a United States citizen or resident alien individual;

a corporation or partnership created or organized in or under the laws of the United States or any State thereof (including the District of Columbia);

an estate if its income is subject to United States federal income taxation regardless of its source; or

a trust (1) that validly elects to be treated as a United States person for United States federal income tax purposes or (2)(a) the administration over which a U.S. court can exercise primary supervision and (b) all of the substantial decisions of which one or more United States persons has the authority to control.

## **Issuance of Additional Debt Securities**

If the terms of any series of debt securities so indicate, we may, without the consent of the holders of that series of debt securities, increase the principal amount of the debt securities of that series by issuing additional debt securities in the future on the same terms and conditions, except for any differences in the issue price and interest accrued prior to the issue date of the additional debt securities, and with the same CUSIP number as existing debt securities of that series. The existing debt securities of that series and any additional debt securities of that series would rank equally and ratably for all purposes under the Indenture.

## **Governing Law**

We will construe the Indenture and the debt securities in accordance with the laws of the State of New York.

## **Certain Definitions**

Set forth below are certain defined terms used in the Indenture.

*joint venture subsidiary* means a subsidiary as of the date of the Indenture of which we, directly or indirectly, own less than 100% of the voting securities entitling the holders thereof to elect a majority of the directors (or, in the case of a partnership, of which we, directly or indirectly, own less than 100% of the general partnership interests therein).

*permitted subsidiary refinancing debt* means debt of any subsidiary, the proceeds of which are used to renew, extend, refinance or refund outstanding debt of that subsidiary; *provided* that the debt is scheduled to mature no earlier than the debt being renewed, extended, refinanced or refunded; *provided, further*, that the debt will be permitted subsidiary refinancing debt only to the extent that the aggregate principal amount of that debt (or, if that debt is issued at a price less than the principal amount thereof, the aggregate amount of gross proceeds therefrom) does not exceed the aggregate principal amount then outstanding under the debt being renewed, extended, refinanced or refunded (or if the debt being renewed, extended, refinanced or refunded was issued at a price less than the principal amount thereof, then not in excess of the amount of liability in respect thereof determined in accordance with generally accepted accounting principles.)

*principal property* means each acute care hospital providing general medical and surgical services (excluding equipment, personal property and hospitals that primarily provide specialty medical services, such as psychiatric and obstetrical and gynecological services) owned solely by our company and/or one or more of our subsidiaries and located in the United States of America.



*restricted subsidiary* means (1) any subsidiary other than an unrestricted subsidiary and (2) any subsidiary that was an unrestricted subsidiary but which, subsequent to the date hereof, is designated by our company (by board resolution) to be a restricted subsidiary; *provided*, that we may not designate any such subsidiary to be a restricted subsidiary if we would thereby breach any covenant or agreement contained in the Indenture (on the assumption that any transaction to which that subsidiary was a party at the time of such designation and which would have given rise to debt or preferred stock or constituted a sale and lease-back transaction at the time it was entered into had that subsidiary then been a restricted subsidiary was entered into at the time of that designation).

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*subsidiary* means (1) any corporation of which at least a majority of the outstanding stock having ordinary voting power to elect a majority of the directors of that corporation, whether or not at the time stock of any other class or classes of that corporation have or might have voting power by reason of the happening of any contingency, is at the time, directly or indirectly, owned or controlled by our company or by one or more of our subsidiaries, or by our company and one or more of our subsidiaries or (2) any partnership or joint venture of which at least a majority of the equity ownership, whether in the form of membership, general, special or limited partnership interests or otherwise, is directly or indirectly owned or controlled by our company or by one or more of our subsidiaries, or by our company and one or more of our subsidiaries; *provided*, that the term *subsidiary* does not include any corporation or partnership controlled by our company (referred to in this definition as an *affiliated entity* ) that:

does not transact any substantial portion of its business or regularly maintain any substantial portion of its operating assets within the continental limits of the United States of America;

is principally engaged in the business of financing (including, without limitation, the purchase, holding, sale or discounting of or lending upon any notes, contracts, leases or other forms of obligations) the sale or lease of merchandise, equipment or services (1) by our company, (2) by a subsidiary (whether such sales or leases have been made before or after the date when the corporation or partnership became a subsidiary), (3) by another affiliated entity or (4) by any corporation or partnership prior to the time when substantially all its assets have been or are acquired by our company;

is principally engaged in the business of owning, leasing, dealing in or developing real property;

is principally engaged in the holding of stock in, and/or the financing of operations of, an affiliated entity; or

is principally engaged in the business of (1) offering health benefit products or (2) insuring against professional and general liability risks of our company.

*unrestricted subsidiary* means (1) any subsidiary acquired or organized after the date hereof; *provided*, that the subsidiary is not a successor, directly or indirectly, to, and does not directly or indirectly own any equity interest in, any restricted subsidiary; (2) any subsidiary the principal business of which consists of obtaining financing in capital markets outside the United States of America or financing the acquisition or disposition of machinery, equipment, inventory, accounts receivable and other real, personal and intangible property by persons including our company or a subsidiary; (3) any subsidiary the principal business of which is owning, leasing, dealing in or developing real property for residential or office building purposes or land, buildings or related real property owned by our company or any subsidiary as of the date of the Indenture; (4) any joint venture subsidiary; or (5) stock or other securities of an unrestricted subsidiary of the character described in clauses (1) through (4) of this definition, unless and until, in each of the cases specified in this paragraph, any such subsidiary has been designated a restricted subsidiary pursuant to clause (2) of the definition of *restricted subsidiary*.

## **Senior Notes and Debentures**

The principal terms of the debt securities issued and outstanding as of the date of this prospectus are set forth below. Interest on the below series of debt securities accrues at the annual rate indicated in the title of the series and is payable on the indicated interest payment dates to the registered holders on the preceding record date. The debt securities of the series listed below are not subject to a sinking fund.

### **5.50% Senior Notes Due 2009**

Principal amount of the series: \$500,000,000

Maturity date: December 1, 2009

Interest payment dates: June 1 and December 1

Record dates: May 15 and November 15

Issuance date: November 19, 2004

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 30 basis points)

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**8.75% Senior Notes Due 2010**

Principal amount of the series: \$750,000,000

Maturity date: September 1, 2010

Interest payment dates: March 1 and September 1

Record dates: February 15 and August 15

Issuance date: August 23, 2000

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 50 basis points)

**8.75% Senior Notes Due 2010**

Principal amount of the series: £150,000,000

Maturity date: November 1, 2010

Interest payment dates: May 1 and November 1

Record dates: April 15 and October 15

Issuance date: November 1, 2000

Redemption prior to maturity: Redeemable after November 1, 2003 at an applicable premium and redeemable at any time upon certain events related to U.S. taxation, in each case as described above under Provisions that Apply Only to the 2010 Pounds Sterling Note

**7.875% Senior Notes Due 2011**

Principal amount of the series: \$500,000,000

Maturity date: February 1, 2011

Interest payment dates: February 1 and August 1

Record dates: January 15 and July 15

Issuance date: January 26, 2001

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 50 basis points)

**6.95% Senior Notes Due 2012**

Principal amount of the series: \$500,000,000

Maturity date: May 1, 2012

Interest payment dates: May 1 and November 1

Record dates: April 15 and October 15

Issuance date: April 26, 2002

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 25 basis points)

**6.30% Senior Notes Due 2012**

Principal amount of the series: \$500,000,000

Maturity date: October 1, 2012

Interest payment dates: April 1 and October 1

Record dates: March 15 and September 15

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Issuance date: September 23, 2002

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 37.5 basis points)

**6.25% Senior Notes Due 2013**

Principal amount of the series: \$500,000,000

Maturity date: February 15, 2013

Interest payment dates: August 15 and February 15

Record dates: August 1 and February 1

Issuance date: February 10, 2003

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 35 basis points)

**6.75% Senior Notes Due 2013**

Principal amount of the series: \$500,000,000

Maturity date: July 15, 2013

Interest payment dates: January 15 and July 15

Record dates: January 1 and July 1

Issuance date: July 28, 2003

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 35 basis points)

**5.75% Senior Notes Due 2014**

Principal amount of the series: \$500,000,000

Maturity date: March 15, 2014

Interest payment dates: March 15 and September 15

Record dates: March 1 and September 1

Issuance date: March 8, 2004

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 30 basis points)

**6.375% Senior Notes Due 2015**

Principal amount of the series: \$750,000,000

Maturity date: January 15, 2015

Interest payment dates: January 15 and July 15

Record dates: January 1 and July 1

Issuance date: November 19, 2004

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 35 basis points)

**6.50% Senior Notes due 2016**

Principal amount of the series: \$1,000,000,000

Maturity date: February 15, 2016

Interest payment dates: February 15 and August 15

Record dates: February 1 and August 1

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Issuance date: February 8, 2006

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 30 basis points)

**7.69% Notes Due 2025**

Principal amount of the series: \$300,000,000

Maturity date: June 15, 2025

Interest payment dates: June 15 and December 15

Record dates: June 1 and December 1

Issuance date: June 30, 1995

Redemption prior to maturity: Not redeemable prior to maturity

**7.50% Senior Notes Due 2033**

Principal amount of the series: \$250,000,000

Maturity date: November 6, 2033

Interest payment dates: May 6 and November 6

Record dates: April 21, and October 21

Issuance date: November 6, 2003

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 37.5 basis points)

**7.19% Debentures Due 2015**

Principal amount of the series: \$150,000,000

Maturity date: November 15, 2015

Interest payment dates: May 15 and November 15

Record dates: May 1 and November 1

Issuance date: November 27, 1995

Redemption prior to maturity: Redeemable at any time at our option, in whole or in part, subject to an applicable premium (based on the Treasury Rate plus 20 basis points)



**7.50% Debentures Due 2023**

Principal amount of the series: \$150,000,000

Maturity date: December 15, 2023

Interest payment dates: June 15 and December 15

Record dates: June 1 and December 1

Issuance date: December 16, 1993

Redemption prior to maturity: Not redeemable prior to maturity

**8.36% Debentures Due 2024**

Principal amount of the series: \$150,000,000

Maturity date: April 15, 2024

Interest payment dates: April 15 and October 15

Record dates: April 1 and October 1

Issuance date: April 27, 1994

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Redemption prior to maturity: Not redeemable prior to maturity

**7.05% Debentures Due 2027**

Principal amount of the series: \$150,000,000

Maturity date: December 1, 2027

Interest payment dates: June 1 and December 1

Record dates: May 15 and November 15

Issuance date: December 8, 1995

Redemption prior to maturity: Not redeemable prior to maturity

**7.75% Debentures Due 2036**

Principal amount of the series: \$100,000,000

Maturity date: July 15, 2036

Interest payment dates: July 15 and January 15

Record dates: July 1 and January 1

Issuance date: July 8, 1996

Redemption prior to maturity: Not redeemable prior to maturity

**7.50% Debentures Due 2095**

Principal amount of the series: \$200,000,000

Maturity date: November 15, 2095

Interest payment dates: May 15 and November 15

Record dates: May 1 and November 1

Issuance date: November 27, 1995

Redemption prior to maturity: Not redeemable prior to maturity

**Medium-Term Notes**

In the table below, we specify the following terms of the Medium-Term Notes (the Medium-Term Notes ): issuance date; principal amount; maturity date; interest rate; and redemption terms, if any.

The Medium-Term Notes are not subject to a sinking fund and are not redeemable prior to maturity unless indicated below.

<b>Issuance Date</b>	<b>Principal Amount</b>	<b>Maturity Date</b>	<b>Interest Rate/Redemption Terms</b>
February 8, 1995	\$ 150,000,000	February 10, 2010	8.70% Not redeemable prior to maturity
January 20, 1995	\$ 150,000,000	December 15, 2014	9.00% Not redeemable prior to maturity
September 14, 1995	\$ 125,000,000	September 15, 2025	7.58% Not redeemable prior to maturity

**Senior Secured Notes Issued Under the 2006 Indenture**

We have issued senior secured notes as described below under an indenture, dated as of November 17, 2006, among the Company, the guarantors named therein and The Bank of New York, as trustee. Terms used in this Senior Secured Notes Issued Under the 2006 Indenture apply only to the Notes described herein.

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### **General**

Certain terms used in this description are defined under the subheading *Certain Definitions*. In this description, the terms *we*, *our*, *us* and *the Company* each refer to HCA Inc. (the *Issuer*) and its consolidated Subsidiaries.

The Issuer issued \$1,000,000,000 aggregate principal amount of 91/8% senior secured notes due 2014 (the *2014 Cash Pay Notes*), \$3,200,000,000 aggregate principal amount of 91/4% senior secured notes due 2016 (the *2016 Cash Pay Notes*) and, together with the 2014 Cash Pay Notes, the *Cash Pay Notes*) and \$1,500,000,000 aggregate principal amount of 95/8%/103/8% optional PIK interest senior secured notes due 2016 (the *Toggle Notes*) and, together with the Cash Pay Notes, the *Notes*) under the indenture dated November 17, 2006 (the *Indenture*) among the Issuer, the Guarantors and The Bank of New York, as trustee (the *Trustee*). The Notes were issued in a private transaction that was not subject to the registration requirements of the Securities Act. Except as set forth herein, the terms of the Notes are substantially identical and include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act.

The following description is only a summary of the material provisions of the Indenture, does not purport to be complete and is qualified in its entirety by reference to the provisions of that agreement, including the definitions therein of certain terms used below. We urge you to read the Indenture because it, and not this description, will define your rights as Holders of the Notes.

### **Brief Description of Notes**

The Notes are:

general senior obligations of the Issuer;

secured on a second-priority basis, equally and ratably with all existing and future obligations of the Issuer and the Guarantors under any future Junior Lien Obligations, by all of the assets of the Issuer and the Guarantors which are not Principal Properties and which secure the General Credit Facility (other than the European Collateral), subject to the Liens securing the Issuer's and the Guarantors' obligations under the General Credit Facility and any other Priority Lien Obligations and other Permitted Liens;

secured on a third-priority basis, equally and ratably with all existing and future obligations of the Issuer and the Guarantors under any future Junior Lien Obligations, by all of the assets of the Issuer and the Guarantors securing the ABL Facility which also secure the General Credit Facility, subject to the Liens securing the Issuer's and the Guarantors' obligations under the Senior Credit Facilities and any other Priority Lien Obligations and other Permitted Liens;

effectively subordinated, to the extent of the value of the assets securing such Indebtedness (which, in any event, exclude the European Collateral, which does not secure the Notes), to the Issuer's and the Guarantors' obligations under the General Credit Facility and any future Priority Lien Obligations, that will be secured (A) on a first-priority basis by the same assets of the Issuer and the Guarantors that secure the Notes and by certain other assets of the Issuer and the Guarantors, including the Principal Properties, that do not secure the Notes and (B) on a second-priority basis by the Shared Receivables Collateral;

effectively subordinated to the Issuer's and the Guarantors' obligations under the ABL Facility, to the extent of the value of the Shared Receivables Collateral;

effectively subordinated to any obligations secured by Permitted Liens, to the extent of the value of the assets of the Issuer and the Guarantors subject to those Permitted Liens;

structurally subordinated to any existing and future indebtedness and liabilities of non-guarantor Subsidiaries, including the ABL Financing Entities and the Issuer's Foreign Subsidiaries and any Unrestricted Subsidiaries;

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ranked equally in right of payment with all existing and future senior Indebtedness of the Issuer and the Guarantors but, to the extent of the value of the Collateral, are effectively senior to all of the Issuer's and the Guarantors' unsecured senior Indebtedness (including the Existing Notes);

senior in right of payment to any future Subordinated Indebtedness (as defined with respect to the Notes) of the Issuer; and

initially unconditionally guaranteed on a joint and several and senior basis by each Restricted Subsidiary that guarantees the General Credit Facility (other than any Foreign Subsidiary).

**Guarantees**

The Guarantors, as primary obligors and not merely as sureties, jointly and severally fully and unconditionally guaranteed, on a senior basis, the performance and full and punctual payment when due, whether at maturity, by acceleration or otherwise, of all obligations of the Issuer under the Indenture and the Notes, whether for payment of principal of, premium, if any, or interest or Additional Interest in respect of the Notes, expenses, indemnification or otherwise, on the terms set forth in the Indenture by executing the Indenture.

The Restricted Subsidiaries which guarantee the General Credit Facility guarantee the Notes. Each of the Guarantees of the Notes is a general senior obligation of each Guarantor and is secured by a second-priority lien on all of the assets of each Guarantor which secure the General Credit Facility and which are not Principal Properties and by a third-priority lien on all of the assets of each Guarantor which secure the ABL Facility. The Guarantees rank equally in right of payment with all existing and future senior Indebtedness of the Guarantor but, to the extent of the value of the Collateral, are effectively senior to all of the Guarantor's unsecured senior Indebtedness and, to the extent of the Collateral, are effectively subordinated to the Guarantor's Obligations under the Senior Credit Facilities and any future Priority Lien Obligations. The Guarantees are senior in right of payment to all existing and future Subordinated Indebtedness of each Guarantor. The Notes are structurally subordinated to Indebtedness and other liabilities of Subsidiaries of the Issuer that do not Guarantee the Notes.

Not all of the Issuer's Subsidiaries Guarantee the Notes. In the event of a bankruptcy, liquidation or reorganization of any of these non-guarantor Subsidiaries, the non-guarantor Subsidiaries will pay the holders of their debt and their trade creditors before they will be able to distribute any of their assets to the Issuer. None of our Subsidiaries which are Restricted Subsidiaries for purposes of the Existing Notes Indenture, Foreign Subsidiaries, ABL Financing Entities, non-Wholly Owned Subsidiaries or any Receivables Subsidiaries guarantee the Notes. The obligations of each Guarantor under its Guarantee are limited as necessary to prevent the Guarantee from constituting a fraudulent conveyance under applicable law.

On an as adjusted basis after giving effect to our offering of \$1.500 billion aggregate principal amount of first lien notes in April 2009 and the use of proceeds therefrom, our non-guarantor subsidiaries would have accounted for approximately \$11.867 billion, or 41.8%, of our total revenues for the year ended December 31, 2008, approximately \$3.038 billion, or 40.9%, of our total revenues for the three months ended March 31, 2009, approximately \$9.876 billion, or 40.7%, of our total assets, and approximately \$7.517 billion, or 22.5%, of our total liabilities, in each case, as of December 31, 2008, and approximately \$9.817 billion, or 40.4%, of our total assets, and approximately \$7.224 billion, or 21.9%, of our total liabilities, in each case, as of March 31, 2009.

Any entity that makes a payment under its Guarantee is entitled upon payment in full of all guaranteed obligations under the Indenture to a contribution from each other Guarantor in an amount equal to such other Guarantor's pro rata portion of such payment based on the respective net assets of all the Guarantors at the time of such payment

determined in accordance with GAAP.

If a Guarantee were rendered voidable, it could be subordinated by a court to all other indebtedness (including guarantees and other contingent liabilities) of the Guarantor, and, depending on the amount of such indebtedness, a Guarantor's liability on its Guarantee could be reduced to zero. See Risk Factors Risks Related to the Notes Federal and state fraudulent transfer laws may permit a court to void the notes, and

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with respect to the senior secured notes, the guarantees, and, if that occurs, you may not receive any payment on the notes.

Each Guarantee by a Guarantor provides by its terms that it will be automatically and unconditionally released and discharged upon:

- (1) (a) any sale, exchange or transfer (by merger or otherwise) of the Capital Stock of such Guarantor (including any sale, exchange or transfer), after which the applicable Guarantor is no longer a Restricted Subsidiary or all or substantially all the assets of such Guarantor, which sale, exchange or transfer is made in compliance with the applicable provisions of the Indenture;
  - (b) the release or discharge of the guarantee by such Guarantor of the Senior Credit Facilities or such other guarantee that resulted in the creation of such Guarantee, except a discharge or release by or as a result of payment under such guarantee;
  - (c) the designation of any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary in compliance with the applicable provisions of the Indenture; or
  - (d) the exercise by the Issuer of its legal defeasance option or covenant defeasance option as described under Legal Defeasance and Covenant Defeasance or the discharge of the Issuer's obligations under the Indenture in accordance with the terms of the Indenture; and
- (2) such Guarantor delivering to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for in the Indenture relating to such transaction have been complied with.

## **Holding Company Structure**

The Issuer is a holding company for its Subsidiaries, with no material operations of its own and only limited assets. Accordingly, the Issuer is dependent upon the distribution of the earnings of its Subsidiaries, whether in the form of dividends, advances or payments on account of intercompany obligations, to service its debt obligations.

## **Security**

### ***General***

The Notes and the Guarantees are secured by perfected second-priority security interests in the Non-Receivables Collateral (second in priority to the Liens on the Non-Receivables Collateral securing the First Lien Obligations) and by perfected third-priority security interests in the Shared Receivables Collateral (third in priority to the first-priority and second-priority Liens on the Shared Receivables Collateral securing the ABL Obligations and the First Lien Obligations, respectively), in each case, subject to Permitted Liens; *provided*, that with respect to the portion of the Collateral comprised of real property, the Issuer and the Guarantors have such time as is reasonably necessary from the Issue Date to complete the actions required to perfect the second-priority Lien on such Collateral. The Cash Pay Notes and the Toggle Notes share in the benefit of such security interests *pro rata* based on the respective amounts of the Obligations thereunder. Notwithstanding the foregoing, neither the Notes nor the Guarantees are or will be secured by the European Collateral or the Separate Receivables Collateral and, until after the Discharge of the First Lien Obligations, the Notes and the Guarantees will not be secured by any Principal Properties. Upon the Discharge of First Lien Obligations and so long as no First Lien Obligations are outstanding, the Principal Properties that constituted Collateral under the First Lien Security Documents Facility will become Collateral with respect to the Notes, subject to the same limitation on the amount of Obligations secured thereby as contained in the First Lien Security



Documents. See also Certain Limitations on the Collateral below. Priority Lien Secured Parties have rights and remedies with respect to the Collateral that, if exercised, could adversely affect the value of the Collateral or the ability of the respective agents under the Intercreditor Agreements to realize or foreclose on the Collateral on behalf of holders of the Notes. For a description of the Shared Receivables

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Collateral and the Non-Receivables Collateral, see Description of Other Indebtedness Senior Secured Credit Facilities Guarantee and Security.

The Issuer and the Guarantors are and will be able to incur additional Indebtedness in the future which could share in the Collateral, including additional First Lien Obligations, additional ABL Obligations, additional Junior Lien Obligations and Obligations secured by Permitted Liens. The amount of such additional Obligations are and will be limited by the covenant described under Certain Covenants Liens and the covenant described under Certain Covenants Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock. Under certain circumstances, the amount of any such additional Obligations could be significant.

***After-Acquired Collateral***

From and after the Issue Date and subject to certain limitations and exceptions, (a) if the Issuer or any Guarantor creates any additional security interest upon any property or asset that would constitute Collateral to secure any First Lien Obligations (other than Principal Properties prior to the Discharge of First Lien Obligations and so long as no First Lien Obligations are outstanding and other than European Collateral and Separate Receivables Collateral), it must concurrently grant a second-priority perfected security interest (subject to Permitted Liens) upon such property as security for the Notes and (b) if the Issuer or any Guarantor creates any additional security interest upon any property or asset that would constitute Shared Receivables Collateral to secure any Priority Lien Obligations, it must concurrently grant a third-priority perfected security interest (subject to Permitted Liens) upon such property as security for the Notes.

***Liens with Respect to the Collateral***

***Security Documents and Intercreditor Agreements***

The Issuer, the Guarantors and the Junior Lien Collateral Agent entered into the Security Documents with respect to the Collateral defining the terms of the security interests that secure the Notes and the Guarantees with respect to such Collateral. These security interests secure the payment and performance when due of all of the Obligations of the Issuer and the Guarantors under the Notes, the Indenture, the Guarantees and the Security Documents, as provided in the Security Documents.

The Junior Lien Collateral Agent and the First Lien Collateral Agent entered into the General Intercreditor Agreement (as the same may be amended from time to time, the *General Intercreditor Agreement* ) with respect to the Collateral. The First Lien Collateral Agent is initially the Collateral Agent under the General Credit Facility. The Junior Lien Collateral Agent is initially the Trustee. Pursuant to the terms of the General Intercreditor Agreement, prior to the Discharge of First Lien Obligations, the First Lien Collateral Agent, acting on behalf of the First Lien Secured Parties, will determine the time and method by which the security interests in the Collateral will be enforced and will have the sole and exclusive right to manage, perform and enforce the terms of the Security Documents relating to the Collateral and to exercise and enforce all privileges, rights and remedies thereunder according to its direction, including to take or retake control or possession of such Collateral and to hold, prepare for sale, marshal, process, sell, lease, dispose of or liquidate such Collateral, including, without limitation, following the occurrence of a Default or Event of Default under the Indenture. The Junior Lien Collateral Agent will not be permitted to enforce the security interests even if any Event of Default under the Indenture has occurred and the Notes have been accelerated except (a) in any insolvency or liquidation proceeding, solely as necessary to file a proof of claim or statement of interest with respect to the Junior Lien Obligations or (b) as necessary to take any action in order to prove, preserve, perfect or protect (but not enforce) its security interest and rights in, and the perfection and priority of its Lien on, the Collateral. See Risk Factors Risks Related to the Notes The lien ranking provisions of the Indenture and other agreements relating to the collateral securing the notes will limit the rights of holders of the notes with respect to that

collateral, even during an event of default. After the Discharge of First Lien Obligations, the Junior Lien Collateral Agent in accordance with the provisions of the Junior Lien Documents will distribute all cash proceeds (after payment of the costs of enforcement and collateral administration and any other amounts owed to the Junior Lien Collateral Agent) of the Collateral received by

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it under the Security Documents for the ratable benefit of the holders of Junior Lien Obligations. The proceeds from the sale of the Collateral remaining after the satisfaction of all First Lien Obligations may not be sufficient to satisfy the Junior Lien Obligations. By its nature some or all of the Collateral is and will be illiquid and may have no readily ascertainable market value. Accordingly, the Collateral may not be able to be sold in a short period of time, if salable. See Risk Factors Risks Related to the Notes The value of the collateral securing the notes may not be sufficient to satisfy our obligations under the notes.

The Junior Lien Collateral Agent, for itself and on behalf of each Junior Lien Secured Party, has agreed in the General Intercreditor Agreement that (a) it will not (and thereby waives any right to) take any action to challenge, contest or support any other Person in contesting or challenging, directly or indirectly, in any proceeding (including any insolvency or liquidation proceeding), the validity, perfection, priority or enforceability of a Lien securing any First Lien Obligations held (or purported to be held) by or on behalf of the First Lien Collateral Agent or any of the First Lien Secured Parties or any agent or trustee therefor in any Collateral or other First Lien Collateral and (b) it will not oppose or otherwise contest (or support any other Person contesting) any request for judicial relief made in any court by the First Lien Collateral Agent or any First Lien Secured Parties relating to the lawful enforcement of any First Priority Lien on Collateral or other First Lien Collateral.

In addition, the Security Documents provide that, prior to the Discharge of First Lien Obligations, (1) the First Lien Collateral Agent may take actions with respect to the Collateral (including the release of Collateral and the manner of realization (subject to the provisions described under Release of Collateral )) without the consent of the Junior Lien Collateral Agent or other Junior Lien Secured Parties and (2) the Issuer and the Guarantors may require the Junior Lien Collateral Agent to agree to modify the Security Documents, or the General Intercreditor Agreement, without the consent of the Junior Lien Collateral Agent or other Junior Lien Secured Parties, to secure additional extensions of credit and add additional First Lien Secured Parties or Junior Lien Secured Parties so long as such modifications do not expressly violate the provisions of the General Credit Facility or the Indenture. In addition, the General Intercreditor Agreement provides that with respect to Collateral in the event that the First Lien Collateral Agent or the First Lien Secured Parties enter into any amendment, waiver or consent in respect of or replace any of the First Lien Security Documents for the purpose of adding to, or deleting from, or waiving or consenting to any departures from any provisions of, any First Lien Security Document or changing in any manner the rights of the First Lien Collateral Agent, the First Lien Secured Parties, the Issuer or any Guarantor thereunder (including the release of any Liens in Collateral in accordance with the provisions described under Release of Collateral ), then such amendment, waiver or consent shall apply automatically to any comparable provision of each comparable Security Document in favor of the Junior Lien Obligations without the consent of the Junior Lien Collateral Agent, any Junior Lien Representative or any Junior Lien Secured Party and without any action by the Junior Lien Collateral Agent, any Junior Lien Representative, the Issuer or any Guarantor; *provided* that such amendment, waiver or consent does not materially adversely affect the rights of the Junior Lien Secured Parties or the interests of the Junior Lien Secured Parties in the Collateral in a manner materially different from that affecting the rights of the First Lien Secured Parties thereunder or therein. Any provider of additional extensions of credit shall be entitled to rely on the determination of an Officer that such modifications do not expressly violate the provisions of the General Credit Facility or the Indenture if such determination is set forth in an Officer's Certificate delivered to such provider.

So long as the Discharge of First Lien Obligations has not occurred, the Collateral or proceeds thereof received in connection with the sale or other disposition of, or collection on, such Non-Receivables Collateral upon the exercise of remedies will be applied by the First Lien Collateral Agent to the First Lien Obligations in such order as specified in the relevant First Lien Documents until the Discharge of First Lien Obligations has occurred. Upon the Discharge of First Lien Obligations, the First Lien Collateral Agent shall deliver to the Junior Lien Collateral Agent (for the benefit of all Junior Lien Secured Parties) any remaining proceeds of Collateral held by it in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct to be applied by the Junior Lien Collateral Agent to the Junior Lien Obligations in such order as specified in the Junior Lien

Documents.

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In addition, so long as the Discharge of First Lien Obligations has not occurred, neither the Junior Lien Collateral Agent nor any Junior Lien Representative shall acquire or hold any Lien on any assets of the Issuer or any Subsidiary (and neither the Issuer nor any Subsidiary shall grant such Lien) securing any Junior Lien Obligations that are not also subject to the First Priority Lien in respect of the First Lien Obligations under the First Lien Documents. If the Junior Lien Collateral Agent or any Junior Lien Representative shall acquire or hold any Lien on any assets of the Issuer or any Subsidiary that is not also subject to the First Priority Lien in respect of the First Lien Obligations under the First Lien Documents, then such Junior Lien Collateral Agent or other Junior Lien Representative shall, without the need for any further consent of any party and notwithstanding anything to the contrary in any other document, be deemed to also hold and have held such Lien for the benefit of the First Lien Collateral Agent as security for the First Lien Obligations (subject to the lien priority and other terms hereof).

The Junior Lien Collateral Agent and each other Junior Lien Secured Party have agreed that any Lien purported to be granted on any Collateral as security for First Lien Obligations shall be deemed to be and shall be deemed to remain senior in all respects and prior to all Liens on the Collateral securing any Junior Lien Obligations for all purposes regardless of whether the Lien purported to be granted is found to be improperly granted, improperly perfected, preferential, a fraudulent conveyance or legally or otherwise deficient or invalid, in whole or in part, in any manner.

Any Collateral or proceeds thereof received by any Junior Lien Secured Party at a time when such receipt is not expressly permitted by the terms of the General Intercreditor Agreement or prior to the Discharge of First Lien Obligations shall be segregated and held in trust for the benefit of and forthwith paid over to the First Lien Collateral Agent (and/or its designees) for the benefit of the First Lien Secured Parties in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct.

If any First Lien Secured Party is required in any insolvency or liquidation proceeding or otherwise to turn over or otherwise pay to the estate of the Issuer or any other Guarantor (or any trustee, receiver or similar person therefor), because the payment of such amount was declared to be fraudulent or preferential in any respect or for any other reason, any amount (a *Recovery*), whether received as proceeds of security, enforcement of any right of setoff or otherwise, then as among the parties hereto, the First Lien Obligations shall be deemed to be reinstated to the extent of such Recovery and to be outstanding as if such payment had not occurred and such First Lien Secured Party shall be entitled to a reinstatement of First Lien Obligations with respect to all such recovered amounts and shall have all rights hereunder. If the General Intercreditor Agreement shall have been terminated prior to such Recovery, the General Intercreditor Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties thereto. Any Collateral or other First Lien Collateral or proceeds thereof received by any Junior Lien Secured Party prior to the time of such Recovery shall be deemed to have been received prior to the Discharge of First Lien Obligations and subject to the provisions of the immediately preceding paragraph.

In addition, if at any time in connection with or after the Discharge of First Lien Obligations the Issuer either in connection therewith or thereafter enters into any Refinancing of any First Lien Document evidencing a First Lien Obligation, then such Discharge of First Lien Obligations shall automatically be deemed not to have occurred for all purposes of the General Intercreditor Agreement, the First Lien Documents and the Junior Lien Documents, and the obligations under such Refinancing shall automatically be treated as First Lien Obligations for all purposes of the General Intercreditor Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth therein, the related documents shall be treated as First Lien Documents for all purposes of the General Intercreditor Agreement and the first lien collateral agent under such Refinanced First Lien Documents shall be First Lien Collateral Agent for all purposes of the General Intercreditor Agreement.

The General Intercreditor Agreement provides that, prior to the Discharge of First Lien Obligations, neither the Junior Lien Collateral Agent nor any other Junior Lien Secured Parties may assert or enforce any right of marshalling

accorded to a junior lienholder, as against the First Lien Collateral Agent or any First

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Lien Secured Party (in their capacity as priority lienholders). Following the Discharge of First Lien Obligations, the Junior Lien Secured Parties may assert their right under the Uniform Commercial Code or otherwise to any proceeds remaining following a sale or other disposition of Collateral by, or on behalf of, the First Lien Collateral Agent or the First Lien Secured Parties. This waiver of all rights of marshalling prior to the Discharge of First Lien Obligations may result in proceeds from the sale of Collateral (in which the Junior Lien Secured Parties have second-priority Liens) being applied to repay First Lien Obligations prior to the application of the proceeds of Shared Receivables Collateral (in which the Junior Lien Secured Parties have third-priority Liens), the Principal Properties (in which the Junior Lien Secured Parties will not have a security interest prior to the Discharge of First Lien Obligations and during any time that any First Lien Obligations are outstanding) or the European Collateral or the Separate Receivables Collateral (in which the Junior Lien Secured Parties do not have a security interest). In that scenario, Junior Lien Secured Parties may recover less than they would have if such proceeds were applied in the order most favorable to the Junior Lien Secured Parties.

So long as the Discharge of First Lien Obligations has not occurred, whether or not any insolvency or liquidation proceeding has been commenced by or against the Issuer or any Guarantor, (i) neither the Junior Lien Collateral Agent, any Junior Lien Representative nor any Junior Lien Secured Party will (x) exercise or seek to exercise any rights or remedies (including setoff or the right to credit bid debt (except as set forth in the next paragraph below)) with respect to any Collateral in respect of any applicable Junior Lien Obligations, or institute any action or proceeding with respect to such rights or remedies (including any action of foreclosure), (y) contest, protest or otherwise object to any foreclosure or enforcement proceeding or action brought with respect to the Collateral or any other collateral by the First Lien Collateral Agent or any First Lien Secured Party in respect of the First Lien Obligations, the exercise of any right by the First Lien Collateral Agent or any First Lien Secured Party (or any agent or sub-agent on their behalf) in respect of the First Lien Obligations under any control agreement, lockbox agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which the Junior Lien Collateral Agent, any Junior Lien Representative or any Junior Lien Secured Party either is a party or may have rights as a third-party beneficiary, or any other exercise by any such party of any rights and remedies as a secured party relating to the Collateral or any other collateral under the First Lien Documents or otherwise in respect of First Lien Obligations, or (z) object to any waiver or forbearance by the First Lien Secured Parties from or in respect of bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Collateral or any other collateral in respect of First Lien Obligations and (ii) except as otherwise provided in the General Intercreditor Agreement, the First Lien Collateral Agent and the First Lien Secured Parties shall have the sole and exclusive right to enforce rights, exercise remedies (including setoff and the right to credit bid their debt), marshal, process and make determinations regarding the release, disposition or restrictions, or waiver or forbearance of rights or remedies with respect to the Collateral without any consultation with or the consent of the Junior Lien Collateral Agent, any Junior Lien Representative or any Junior Lien Secured Party.

Notwithstanding the foregoing, the General Intercreditor Agreement shall not be construed to in any way limit or impair the right of any Junior Lien Secured Party from exercising a credit bid with respect to the Junior Lien Obligations in a sale or other disposition of Collateral under Section 363 of the Bankruptcy Code; *provided* that in connection with and immediately after giving effect to such sale and credit bid there occurs a Discharge of First Lien Obligations.

In addition, the Junior Lien Collateral Agent, each Junior Lien Representative and each other Junior Lien Secured Party have agreed that if the Issuer or any Guarantor is subject to any insolvency or liquidation proceeding:

(1) if the First Lien Collateral Agent acting on behalf of First Lien Secured Parties desires to permit the use of cash collateral or to permit the Issuer or any Guarantor to obtain financing under Section 363 or Section 364 of the Bankruptcy Code or any similar provision in any Bankruptcy Law ( *DIP Financing* ), including if such DIP Financing is secured by Liens senior in priority to the Liens securing the Notes or other Junior Lien Obligations, then



the Junior Lien Collateral Agent and each Junior Lien Representative, on behalf of itself and each applicable Junior Lien Secured Party, agrees not to object to such use of cash collateral or DIP Financing and will not request adequate protection or any other relief

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in connection therewith (except to the extent permitted by the General Intercreditor Agreement, as set forth below) and, to the extent the Liens securing the First Lien Obligations are subordinated or *pari passu* with such DIP Financing, will subordinate its Liens in the Collateral and any other collateral to such DIP Financing (and all Obligations relating thereto) on the same basis as they are subordinated to the First Lien Obligations;

(2) none of them will object to, or otherwise contest (or support any other Person contesting), any motion for relief from the automatic stay or from any injunction against foreclosure or enforcement in respect of the First Lien Obligations made by the First Lien Collateral Agent or any First Lien Secured Party;

(3) none of them will object to, or otherwise contest (or support any other Person contesting), any order relating to a sale of assets of any Issuer or Guarantor for which the First Lien Collateral Agent has consented that provides, to the extent that sale is to be free and clear of Liens, that the Liens securing the First Lien Obligations and the Junior Lien Obligations will attach to the proceeds of the sale on the same basis of priority as the existing Liens in accordance with the General Intercreditor Agreement;

(4) none of them will seek relief from the automatic stay or any other stay in any insolvency or liquidation proceeding in respect of the Collateral or any other First Lien Collateral, without the prior written consent of the First Lien Collateral Agent;

(5) none of them will object to, or otherwise contest (or support any other Person contesting), (a) any request by the First Lien Collateral Agent or any First Lien Secured Party for adequate protection or (b) any objection by the First Lien Collateral Agent or any First Lien Secured Party to any motion, relief, action or proceeding based on the First Lien Collateral Agent's or such First Lien Secured Party's claiming a lack of adequate protection;

(6) none of them will assert or enforce (or support any Person asserting or enforcing) any claim under Section 506(c) of the Bankruptcy Code senior to or on a parity with the Liens securing the First Lien Obligations for costs or expenses of preserving or disposing of any Collateral or First Lien Collateral;

(7) none of them will oppose or otherwise contest (or support any other Person contesting) any lawful exercise by the First Lien Collateral Agent or any First Lien Secured Party of the right to credit bid First Lien Obligations at any sale of Collateral or First Lien Collateral; and

(8) none of them will challenge (or support any other person challenging) the validity, enforceability, perfection or priority of the First Priority Liens on Collateral or First Lien Collateral (and the General Intercreditor Agreement will provide that the First Lien Secured Parties agree that none of them will challenge the validity, enforceability, perfection or priority of the Liens in favor of the Trustee and each other Junior Lien Secured Party on the Collateral).

In addition, neither the Junior Lien Collateral Agent, any Junior Lien Representative nor any other Junior Lien Secured Party will file or prosecute in any insolvency or liquidation proceeding any motion for adequate protection (or any comparable request for relief) based upon their respective security interests in the Collateral, except that:

(1) any of them may freely seek and obtain relief granting a junior Lien co-extensive in all respects with, but subordinated to, all Liens granted in the insolvency or liquidation proceeding to, or for the benefit of, the First Lien Secured Parties (and the General Intercreditor Agreement will provide that the First Lien Secured Parties will not object to the granting of such a junior Lien); and

(2) any of them may freely seek and obtain any relief upon a motion for adequate protection (or any comparable relief), without any condition or restriction whatsoever, at any time after the Discharge of First Lien Obligations.

Without limiting the generality of any provisions of the General Intercreditor Agreement, any vote to accept, and any other act to support the confirmation or approval of, any Non-Conforming Plan of

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Reorganization shall be inconsistent with and, accordingly, a violation of the terms of the General Intercreditor Agreement, and the First Lien Collateral Agent shall be entitled to have any such vote to accept a Non-Conforming Plan of Reorganization dismissed and any such support of any Non-Conforming Plan of Reorganization withdrawn.

Subject to the terms of the Security Documents, the Issuer and the Guarantors have the right to remain in possession and retain exclusive control of the Collateral securing the Notes and the Junior Lien Obligations (other than securities, instruments and chattel paper constituting part of the Collateral and deposited with the First Lien Collateral Agent in accordance with the provisions of the First Lien Security Documents and any Shared Receivables Collateral subject to a control agreement under the circumstances described in the First Lien Security Documents), to freely operate the Collateral and to collect, invest and dispose of any income therefrom.

The Junior Lien Collateral Agent and each Junior Lien Representative, on behalf of the Junior Lien Secured Parties, have acknowledged and agreed in the General Intercreditor Agreement that (a) the Junior Lien Secured Parties' claims against the Issuer and/or any Guarantor in respect of the Collateral constitute junior claims separate and apart (and of a different class) from the senior claims of the First Lien Secured Parties against the Issuer and the Guarantor in respect of the Collateral, (b) the First Lien Obligations include all interest that accrues after the commencement of any insolvency or liquidation proceeding of the Issuer or any Guarantor at the rate provided for in the applicable First Lien Documents governing the same, whether or not a claim for post-petition interest is allowed or allowable in any such insolvency or liquidation proceeding and (c) the Intercreditor Agreement constitutes a subordination agreement under Section 510 of the Bankruptcy Code.

***Release of Collateral***

The Issuer and the Guarantors are entitled to the release of property and other assets constituting Collateral from the Liens securing the Notes and the Junior Lien Obligations under any one or more of the following circumstances:

- (1) to enable us to consummate the sale, transfer or other disposition of such property or assets to the extent not prohibited under the covenant described under *Repurchase at the Option of Holders* *Asset Sales* ;
- (2) the release of Excess Proceeds or Collateral Excess Proceeds that remain unexpended after the conclusion of an Asset Sale Offer or a Collateral Asset Sale Offer conducted in accordance with the Indenture;
- (3) in the case of a Guarantor that is released from its Guarantee with respect to the Notes pursuant to the terms of the Indenture, the release of the property and assets of such Guarantor;
- (4) with the consent of the holders of at least 75% of the aggregate principal amount of the Notes then outstanding and affected thereby and a majority of all Junior Lien Obligations (including the Notes) then outstanding and affected thereby (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, Junior Lien Obligations); or
- (5) as described under *Amendment, Supplement and Waiver* below.

The Junior Liens on any Collateral securing the Junior Lien Obligations will also terminate and be released automatically if the First Priority Liens on such Collateral securing First Lien Obligations are released by the First Lien Collateral Agent on behalf of the First Lien Secured Parties, unless such release occurs in connection with, and after giving effect to, a Discharge of First Lien Obligations, which discharge is not in connection with a foreclosure of, or other exercise of remedies with respect to, Collateral by the First Lien Secured Parties (such discharge not in connection with any such foreclosure or exercise of remedies, a *Payment Discharge* ) (provided that, in the case of a Payment Discharge, the Liens on any Collateral disposed of in connection with the satisfaction in whole or in part of

First Lien Obligations shall be automatically released but any proceeds thereof not used for purposes of the Discharge of First Lien

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Obligations or otherwise in accordance with the Indenture shall be subject to Liens in favor of the Junior Lien Secured Parties). In the event of a Payment Discharge, the Junior Liens on Collateral shall become first-priority security interests, subject to Permitted Liens, any intercreditor agreements or arrangements among Junior Lien Secured Parties permitted under the General Intercreditor Agreement and, with respect to Shared Receivables Collateral, subject to the Shared Receivables Intercreditor Agreement; *provided* that if the Issuer or the Guarantors incur at any time thereafter any new or replacement First Lien Obligations permitted under the Indenture, then such Payment Discharge shall automatically be deemed not to have occurred for all purposes of the General Intercreditor Agreement, the First Lien Documents and the Junior Lien Documents, and such new Obligations shall automatically be treated as First Lien Obligations for all purposes of the General Intercreditor Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth therein, and the related documents shall be treated as First Lien Documents.

To the extent necessary and for so long as required for such Subsidiary not to be subject to any requirement pursuant to Rule 3-16 of Regulation S-X under the Securities Act to file separate financial statements with the SEC (or any other governmental agency), the Capital Stock of any Subsidiary of the Company shall not be included in the Collateral with respect to the respective Notes so affected (as described under Certain Limitations on the Collateral ) and shall not be subject to the Liens securing such Notes and the Junior Lien Obligations.

The Junior Liens on the Collateral securing the Notes and the Guarantees also will be released upon (i) payment in full of the principal of, together with accrued and unpaid interest (including Additional Interest, if any) on, the Notes and all other Obligations under the Indenture, the Guarantees and the Security Documents that are due and payable at or prior to the time such principal, together with accrued and unpaid interest (including Additional Interest, if any), are paid or (ii) a legal defeasance or covenant defeasance under the Indenture as described below under Legal Defeasance and Covenant Defeasance or a discharge of the Indenture as described under Satisfaction and Discharge.

Any certificate or opinion required by Section 314(d) of the Trust Indenture Act may be made by an Officer of the Company, except in cases where Section 314(d) requires that such certificate or opinion be made by an independent engineer, appraiser or other expert.

Notwithstanding anything to the contrary herein, the Issuer and its Subsidiaries will not be required to comply with all or any portion of Section 314(d) of the Trust Indenture Act if they determine, in good faith based on advice of counsel, that under the terms of that section and/or any interpretation or guidance as to the meaning thereof of the SEC and its staff, including no action letters or exemptive orders, all or any portion of Section 314(d) of the Trust Indenture Act is inapplicable to the released Collateral.

Without limiting the generality of the foregoing, certain no action letters issued by the SEC have permitted an indenture qualified under the Trust Indenture Act to contain provisions permitting the release of collateral from Liens under such indenture in the ordinary course of the issuer's business without requiring the issuer to provide certificates and other documents under Section 314(d) of the Trust Indenture Act. The Issuer and the Guarantors may, subject to the provisions of the Indenture, among other things, without any release or consent by the Junior Lien Collateral Agent, conduct ordinary course activities with respect to the Collateral, including, without limitation:

selling or otherwise disposing of, in any transaction or series of related transactions, any property subject to the Lien of the Security Documents that has become worn out, defective, obsolete or not used or useful in the business;

abandoning, terminating, canceling, releasing or making alterations in or substitutions of any leases or contracts subject to the Lien of the Indenture or any of the Security Documents;

surrendering or modifying any franchise, license or permit subject to the Lien of the Security Documents that it may own or under which it may be operating;

altering, repairing, replacing, changing the location or position of and adding to its structures, machinery, systems, equipment, fixtures and appurtenances;

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granting a license of any intellectual property;

selling, transferring or otherwise disposing of inventory in the ordinary course of business;

collecting accounts receivable in the ordinary course of business as permitted by the covenant described under Repurchase at the Option of Holders Asset Sales ;

making cash payments (including for the repayment of Indebtedness or interest) from cash that is at any time part of the Collateral in the ordinary course of business that are not otherwise prohibited by the Indenture and the Security Documents; and

abandoning any intellectual property that is no longer used or useful in the Issuer s business.

The Issuer must deliver an Officer s Certificate to the Junior Lien Collateral Agent within 30 calendar days following the end of each six-month period beginning on May 15 and November 15 of each year, to the effect that all such releases and withdrawals during the preceding six-month period (or since the Issue Date, in the case of the first such certificate) in the ordinary course of the Issuer s or the Guarantors business, as described in the preceding paragraph, were not prohibited by the Indenture.

***Shared Receivables Intercreditor Agreement***

In addition, the Junior Lien Collateral Agent, the First Lien Collateral Agent and the collateral agent with respect to the ABL Facility (the *ABL Collateral Agent* ) entered into a Shared Receivables Intercreditor Agreement (as the same may be amended from time to time, the *Shared Receivables Intercreditor Agreement* ) with respect to the Shared Receivables Collateral. The Shared Receivables Intercreditor Agreement contains provisions with respect to the Shared Receivables Collateral and the relative rights, privileges and obligations relating thereto as between (a) the Junior Lien Collateral Agent, the other Junior Lien Secured Parties, the First Lien Collateral Agent and the First Lien Secured Parties and (b) the ABL Collateral Agent and the ABL Secured Parties. The Shared Receivables Intercreditor Agreement provides for first-priority Liens in the Shared Receivables Collateral in favor of the ABL Secured Parties, second-priority Liens in the Shared Receivables Collateral in favor of the First Lien Secured Parties and third-priority security interests in the Shared Receivables Collateral in favor of the Junior Lien Secured Parties, in each case, subject to Permitted Liens. The relative rights, privileges and obligations with respect to the Shared Receivables Collateral of the ABL Secured Parties, on the one hand, and the Junior Lien Collateral Agent, the other Junior Lien Secured Parties, the First Lien Collateral Agent and the First Lien Secured Parties, on the other, are substantially identical to the relative rights, privileges and obligations with respect to the Non-Receivables Collateral of the First Lien Secured Parties, on the one hand, and the Junior Lien Secured Parties, on the other, respectively, except that the Liens of the Junior Lien Secured Parties in the Shared Receivables Collateral are third-priority Liens and except to the extent customary or necessary with respect to collateral of the type that constitutes Shared Receivables Collateral.

***Certain Limitations on the Collateral***

The Collateral securing the Notes does not and will not include any of the following assets:

(1) the property or assets owned by any Subsidiary of the Issuer that is not a Guarantor, including each ABL Financing Entity;

(2) any rights or interests of the Issuer or any Guarantor in, to or under any agreement, contract, license, instrument, document or other general intangible (referred to solely for purposes of this clause (2) as a *Contract* ), any



intellectual property or any security or other investment property (i) to the extent the security interest in such Collateral is prohibited by any applicable contract, agreement or other instrument without the consent of any other party thereto (other than a party to the General Credit Facility or the Indenture or, in the case of investment property, a Wholly-Owned Subsidiary), (ii) to the extent the security interest in such Contract would give any other party (other than a party to the General Credit Facility or the Indenture or, in the case of investment property, a Wholly-Owned Subsidiary) to such Collateral the right to terminate its obligations thereunder or (iii) to the extent all necessary consents to

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such grant of a security interest have not been obtained from the other parties thereto (other than to the extent that any such prohibition referred to in clauses (i), (ii) and (iii) would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law)); *provided* that this limitation shall not affect, limit, restrict or impair the grant by the Issuer or such Guarantor of a security interest in any account receivable or any money or other amounts due or to become due under any Contract;

(3) any equipment of the Issuer or any Guarantor that is subject to, or secured by, a Capitalized Lease Obligation or Purchase Money Obligations and any equipment that constitutes an asset of an entity acquired in a transaction permitted by the Indenture to the extent that such equipment subject to a Lien permitted by the Indenture and the terms of the Indebtedness secured by such Lien prohibit assignment of, or granting of a security interest in, the Issuer or such Guarantor's rights and interests therein (other than to the extent that any such prohibition would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law)); *provided* that immediately upon the repayment of all Indebtedness secured by such Lien, the Issuer or the Guarantor, as the case may be, shall be deemed to have granted a security interest in all the rights and interests with respect to such equipment;

(4) any Voting Stock that is issued by any Foreign Subsidiary, if and to the extent that the inclusion of such Voting Stock in the Collateral would cause the Collateral pledged by the Issuer or the applicable Guarantor, as the case may be, to include in the aggregate more than 65% of the total combined voting power of all classes of Voting Stock of such Foreign Subsidiary;

(5) any Capital Stock that is issued by a Subsidiary that is not owned directly by the Issuer or a Guarantor;

(6) prior to the Discharge of First Lien Obligations and so long as any First Lien Obligations are outstanding, any Principal Properties;

(7) any Capital Stock and other securities of a Subsidiary (excluding Healthtrust, Inc. The Hospital Company, a Delaware corporation and its successors and assigns) to the extent that the pledge of such Capital Stock and other securities results in the Company's being required to file separate financial statements of such Subsidiary with the SEC, but only to the extent necessary to not be subject to such requirement and only for so long as such requirement is in existence and only with respect to the relevant Notes affected; *provided* that neither the Issuer nor any Subsidiary shall take any action in the form of a reorganization, merger or other restructuring a principal purpose of which is to provide for the release of the Lien on any Capital Stock pursuant to this clause (7). In addition, in the event that Rule 3-16 of Regulation S-X under the Securities Act is amended, modified or interpreted by the SEC to require (or is replaced with another rule or regulation, or any other law, rule or regulation is adopted, which would require) the filing with the SEC (or any other governmental agency) of separate financial statements of any Subsidiary of the Company due to the fact that such Subsidiary's Capital Stock secures the Notes affected thereby, then the Capital Stock of such Subsidiary will automatically be deemed not to be part of the Collateral securing the relevant Notes affected thereby but only to the extent necessary to not be subject to such requirement and only for so long as required to not be subject to such requirement. In such event, the Security Documents may be amended or modified, without the consent of any holder of such Notes, to the extent necessary to release the security interests in favor of the applicable collateral agents on the shares of Capital Stock that are so deemed to no longer constitute part of the Collateral for the relevant Notes. In the event that Rule 3-16 of Regulation S-X under the Securities Act is amended, modified or interpreted by the SEC to permit (or is replaced with another rule or regulation, or any other law, rule or regulation is adopted, which would permit) such Subsidiary's Capital Stock to secure the Notes in excess of the amount then pledged without the filing with the SEC (or any other governmental agency) of separate financial statements of such Subsidiary, then the Capital Stock of such Subsidiary will automatically be deemed to be a part of the Collateral for the relevant Notes but only to the extent necessary to not be subject to any such financial statement requirement;



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- (8) certain non-Principal Properties that do not constitute Non-Receivables Collateral;
- (9) any deposit accounts, other bank or securities accounts or cash of the Issuer or any Guarantor;
- (10) any leaseholds and motor vehicles of the Issuer or any Guarantor;
- (11) any Capital Stock or securities convertible into or exchangeable for Capital Stock (i) if, in the reasonable judgment of the Issuer, the cost or other consequences of pledging such Collateral shall be excessive in view of the benefits to be obtained by the Junior Lien Secured Parties therefrom or (ii) the pledge of such Collateral would result in adverse tax consequences to the Issuer or any of its Subsidiaries as reasonably determined by the Issuer and identified in writing to the Junior Lien Collateral Agent;
- (12) any collateral to the extent the grant of the security interest therein would violate any requirement of law; and
- (13) proceeds and products from any and all of the foregoing excluded collateral described in clauses (1) through (12), unless such proceeds or products would otherwise constitute Collateral securing the Notes.

***Sufficiency of Collateral***

The fair market value of the Collateral is subject to fluctuations based on factors that include, among others, the condition of the healthcare industry, the ability to sell the Collateral in an orderly sale, general economic conditions, the availability of buyers and similar factors. The amount to be received upon a sale of the Collateral would also be dependent on numerous factors, including, but not limited to, the actual fair market value of the Collateral at such time and the timing and the manner of the sale. By their nature, portions of the Collateral may be illiquid and may have no readily ascertainable market value. Accordingly, there can be no assurance that the Collateral can be sold in a short period of time or in an orderly manner. In addition, in the event of a bankruptcy, the ability of the holders to realize upon any of the Collateral may be subject to certain bankruptcy law limitations as described below.

***Certain Bankruptcy Limitations***

The right of the Trustee to repossess and dispose of the Collateral upon the occurrence of an Event of Default would be significantly impaired by any Bankruptcy Law in the event that a bankruptcy case were to be commenced by or against the Company or any Guarantor prior to the Trustee's having repossessed and disposed of the Collateral. Upon the commencement of a case for relief under the Bankruptcy Code, a secured creditor such as the Trustee is prohibited from repossessing its security from a debtor in a bankruptcy case, or from disposing of security without bankruptcy court approval.

In view of the broad equitable powers of a U.S. bankruptcy court, it is impossible to predict how long payments under the Notes could be delayed following commencement of a bankruptcy case, whether or when the Trustee could repossess or dispose of the Collateral, the value of the Collateral at any time during a bankruptcy case or whether or to what extent holders of the Notes would be compensated for any delay in payment or loss of value of the Collateral. The Bankruptcy Code permits only the payment and/or accrual of post-petition interest, costs and attorneys' fees to a secured creditor during a debtor's bankruptcy case to the extent the value of such creditor's interest in the Collateral is determined by the bankruptcy court to exceed the aggregate outstanding principal amount of the obligations secured by the Collateral.

Furthermore, in the event a domestic or foreign bankruptcy court determines that the value of the Collateral is not sufficient to repay all amounts due on the Notes, the holders of the Notes would hold secured claims only to the extent of the value of the Collateral to which the holders of the Notes are entitled, and unsecured claims with respect to such

shortfall.

**Paying Agent and Registrar for the Notes**

The Issuer must maintain one or more paying agents for the Notes in the Borough of Manhattan, City of New York. The initial paying agent for the Notes is the Trustee.

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The Issuer must also maintain a registrar with offices in the Borough of Manhattan, City of New York. The initial registrar is the Trustee. The registrar maintains a register reflecting ownership of the Notes outstanding from time to time and makes payments on and facilitates transfer of Notes on behalf of the Issuer.

The Issuer may change the paying agents or the registrars without prior notice to the Holders. The Issuer or any of its Subsidiaries may act as a paying agent or registrar.

## **Transfer and Exchange**

A Holder may transfer or exchange Notes in accordance with the Indenture. The registrar and the Trustee may require a Holder to furnish appropriate endorsements and transfer documents in connection with a transfer of Notes. Holders will be required to pay all taxes due on transfer. The Issuer will not be required to transfer or exchange any Note selected for redemption. Also, the Issuer will not be required to transfer or exchange any Note for a period of 15 days before a selection of Notes to be redeemed.

## **Principal, Maturity and Interest**

The Issuer issued \$5,700,000,000 in aggregate principal amount of Notes in a private transaction that was not subject to the registration requirements of the Securities Act, of which \$1,000,000,000 in aggregate principal amount are 2014 Cash Pay Notes, \$3,200,000,000 in aggregate principal amount are 2016 Cash Pay Notes and \$1,500,000,000 in aggregate principal amount are Toggle Notes. The 2014 Cash Pay Notes will mature on November 15, 2014, the 2016 Cash Pay Notes will mature on November 15, 2016 and the Toggle Notes will mature on November 15, 2016. Subject to compliance with the covenant described below under the caption *Certain Covenants – Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock*, the Issuer may issue additional 2014 Cash Pay Notes, 2016 Cash Pay Notes and/or Toggle Notes from time to time after this offering under the Indenture (any such 2014 Cash Pay Notes, 2016 Cash Pay Notes or Toggle Notes, *Additional Notes* ). In addition, in connection with the payment of PIK Interest or Partial PIK Interest in respect of the Toggle Notes, the Issuer is entitled to, without the consent of the Holders, increase the outstanding principal amount of the Toggle Notes or issue additional Toggle Notes (the *PIK Notes* ) under the Indenture on the same terms and conditions as the Toggle Notes (in each case, the *PIK Payment* ). The Cash Pay Notes and the Toggle Notes are each separate series of Notes but are treated as a single class of securities under the Indenture, except as otherwise stated herein. As a result, Holders of each series of Notes do not have separate rights to, among other things, give notice of Defaults or to direct the Trustee to exercise remedies during Event of Default or otherwise. Except as described under *Amendment, Supplement and Waiver*, the Notes offered by the Issuer, the PIK Notes and any Additional Notes subsequently issued under the Indenture will be treated as a single class for all purposes under the Indenture, including waivers, amendments, redemptions and offers to purchase. Unless the context requires otherwise, references to *Notes* for all purposes of the Indenture and this *Description of Notes* include any PIK Notes and Additional Notes that are actually issued, and references to *principal amount* of the Notes includes any increase in the principal amount of the outstanding Notes as a result of a PIK Payment.

## ***Cash Pay Notes***

### ***2014 Cash Pay Notes***

Interest on the 2014 Cash Pay Notes accrues at the rate of 91/8% per annum and is payable semi-annually in arrears on May 15 and November 15, commencing on May 15, 2007, to the Holders of 2014 Cash Pay Notes of record on the immediately preceding May 1 and November 1. Interest on the 2014 Cash Pay Notes accrues from the most recent date to which interest has been paid or, if no interest has been paid, from and including the Issue Date. Interest on the 2014 Cash Pay Notes is computed on the basis of a 360-day year comprised of twelve 30-day months.

*2016 Cash Pay Notes*

Interest on the 2016 Cash Pay Notes accrues at the rate of 9 1/4% per annum and is payable semi-annually in arrears on May 15 and November 15, commencing on May 15, 2007, to the Holders of 2016 Cash Pay

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Notes of record on the immediately preceding May 1 and November 1. Interest on the 2016 Cash Pay Notes accrues from the most recent date to which interest has been paid or, if no interest has been paid, from and including the Issue Date. Interest on the 2016 Cash Pay Notes is computed on the basis of a 360-day year comprised of twelve 30-day months.

***Toggle Notes***

Interest on the Toggle Notes is payable semi-annually in arrears on May 15 and November 15, commencing on May 15, 2007, to the Holders of Toggle Notes of record on the immediately preceding May 1 and November 1. Interest on the Toggle Notes accrues from the most recent date to which interest has been paid or, if no interest has been paid, from and including the Issue Date. Interest on the Toggle Notes is computed on the basis of a 360-day year comprised of twelve 30-day months.

For any interest payment period after the initial interest payment period and prior to November 15, 2011, the Issuer may, at its option, elect to pay interest on the Toggle Notes:

entirely in cash ( *Cash Interest* );

entirely by increasing the principal amount of the outstanding Toggle Notes or by issuing PIK Notes ( *PIK Interest* ); or

on 50% of the outstanding principal amount of the Toggle Notes in cash and on 50% of the principal amount by increasing the principal amount of the outstanding Toggle Notes or by issuing PIK Notes ( *Partial PIK Interest* ).

The Issuer must elect the form of interest payment with respect to each interest period by delivering a notice to the Trustee prior to the beginning of each interest period. The Trustee shall promptly deliver a corresponding notice to the Holders. In the absence of such an election for any interest period, interest on the Toggle Notes shall be payable according to the election for the previous interest period. Interest for the first interest period commencing on the Issue Date shall be payable entirely in cash. After November 15, 2011, the Issuer will make all interest payments on the Toggle Notes entirely in cash. Notwithstanding anything to the contrary, the payment of accrued interest in connection with any redemption of Toggle Notes as described under **Optional Redemption Toggle Notes** or **Repurchase at the Option of Holders** shall be made solely in cash.

Cash Interest on the Toggle Notes accrues at a rate of 95/8% per annum and is payable in cash. PIK Interest on the Toggle Notes accrues at a rate of 103/8% per annum and is payable (x) with respect to Toggle Notes represented by one or more global notes registered in the name of, or held by, The Depository Trust Company ( *DTC* ) or its nominee on the relevant record date, by increasing the principal amount of the outstanding global Toggle Note by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest \$1,000) and (y) with respect to Toggle Notes represented by certificated notes, by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable period (rounded up to the nearest whole dollar), and the Trustee will, at the request of the Issuer, authenticate and deliver such PIK Notes in certificated form for original issuance to the Holders on the relevant record date, as shown by the records of the register of Holders. In the event that the Issuer elects to pay Partial PIK Interest for any interest period, each Holder will be entitled to receive Cash Interest in respect of 50% of the principal amount of the Toggle Notes held by such Holder on the relevant record date and PIK Interest in respect of 50% of the principal amount of the Toggle Notes held by such Holder on the relevant record date. Following an increase in the principal amount of the outstanding global Toggle Notes as a result of a PIK Payment, the global Toggle Notes will bear interest on such increased principal amount from and after the date of such PIK Payment. Any PIK Notes issued in certificated form will be dated as of the



applicable interest payment date and will bear interest from and after such date. All Toggle Notes issued pursuant to a PIK Payment will mature on November 15, 2016 and will be governed by, and subject to the terms, provisions and conditions of, the Indenture and shall have the same rights and benefits as the Toggle Notes issued on the Issue Date. Any certificated PIK Notes will be issued with the description PIK on the face of such PIK Note.

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If the toggle notes would otherwise constitute applicable high yield discount obligations within the meaning of Section 163(i)(1) of the Code, at the end of the first accrual period ending after the fifth anniversary of the toggle notes issuance (the *AHYDO redemption date*), the Issuer will be required to redeem for cash a portion of each toggle note then outstanding equal to the Mandatory Principal Redemption Amount (such redemption, a *Mandatory Principal Redemption*). The redemption price for the portion of each toggle note redeemed pursuant to a Mandatory Principal Redemption will be 100% of the principal amount of such portion plus any accrued interest thereon on the date of redemption. The *Mandatory Principal Redemption Amount* means the portion of a toggle note required to be redeemed to prevent such toggle note from being treated as an applicable high yield discount obligation within the meaning of Section 163(i)(1) of the Code. No partial redemption or repurchase of the toggle notes prior to the AHYDO redemption date pursuant to any other provision of the indenture will alter the Issuer's obligation to make the Mandatory Principal Redemption with respect to any toggle notes that remain outstanding on the AHYDO redemption date.

### ***Additional Interest***

Additional Interest may accrue on the Notes in certain circumstances pursuant to the Registration Rights Agreement. Any Additional Interest on the Notes will be payable in the same form elected by the Issuer for payment of interest for the applicable interest payment period. All references in the Indenture, in any context, to any interest or other amount payable on or with respect to the Notes shall be deemed to include any Additional Interest pursuant to the Registration Rights Agreement.

Principal of, premium, if any, and interest on the Notes will be payable at the office or agency of the Issuer maintained for such purpose within the City and State of New York or, at the option of the Issuer, payment of interest may be made by check mailed to the Holders of the Notes at their respective addresses set forth in the register of Holders; *provided* that all payments of principal, premium, if any, and interest with respect to the Notes represented by one or more global notes registered in the name of or held by DTC or its nominee will be made by wire transfer of immediately available funds to the accounts specified by the Holder or Holders thereof. Until otherwise designated by the Issuer, the Issuer's office or agency in New York will be the office of the Trustee maintained for such purpose.

### **Mandatory Redemption; Offers to Purchase; Open Market Purchases**

Except as set forth in the last paragraph under *Principal, Maturity and Interest Toggle Notes* the Issuer is not required to make any mandatory redemption or sinking fund payments with respect to the Notes. However, under certain circumstances, the Issuer may be required to offer to purchase Notes as described under the caption *Repurchase at the Option of Holders*. The Issuer may at any time and from time to time purchase Notes in the open market or otherwise.

### **Optional Redemption**

#### ***2014 Cash Pay Notes***

Except as set forth below, the Issuer is not entitled to redeem 2014 Cash Pay Notes at its option prior to November 15, 2010.

At any time prior to November 15, 2010, the Issuer may redeem all or a part of the 2014 Cash Pay Notes, upon not less than 30 nor more than 60 days' prior notice mailed by first-class mail to the registered address of each Holder of 2014 Cash Pay Notes or otherwise in accordance with the procedures of DTC, at a redemption price equal to 100% of the principal amount of the 2014 Cash Pay Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest and Additional Interest, if any, to the date of redemption (the *Redemption Date*), subject to the rights of Holders of 2014 Cash Pay Notes on the relevant record date to receive interest due on the relevant interest

payment date.

On and after November 15, 2010, the Issuer may redeem the 2014 Cash Pay Notes, in whole or in part, upon not less than 30 nor more than 60 days prior notice mailed by first-class mail to the registered address

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of each Holder of 2014 Cash Pay Notes or otherwise in accordance with the procedures of DTC, at the redemption prices (expressed as percentages of principal amount of the 2014 Cash Pay Notes to be redeemed) set forth below, plus accrued and unpaid interest thereon and Additional Interest, if any, to the applicable Redemption Date, subject to the right of Holders of 2014 Cash Pay Notes of record on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on November 15 of each of the years indicated below:

<b>Year</b>	<b>Percentage</b>
2010	104.563%
2011	102.281%
2012 and thereafter	100.000%

In addition, until November 15, 2009, the Issuer may, at its option, on one or more occasions redeem up to 35% of the aggregate principal amount of 2014 Cash Pay Notes at a redemption price equal to 109.125% of the aggregate principal amount thereof, plus accrued and unpaid interest thereon and Additional Interest, if any, to the applicable Redemption Date, subject to the right of Holders of 2014 Cash Pay Notes of record on the relevant record date to receive interest due on the relevant interest payment date, with the net cash proceeds of one or more Equity Offerings; *provided* that at least 50% of the sum of the original aggregate principal amount of 2014 Cash Pay Notes issued under the Indenture and the original principal amount of any Additional Notes that are 2014 Cash Pay Notes issued under the Indenture after the Issue Date remains outstanding immediately after the occurrence of each such redemption; *provided further* that each such redemption occurs within 90 days of the date of closing of each such Equity Offering.

Any notice of any redemption may be given prior to the redemption thereof, and any such redemption or notice may, at the Issuer's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of an Equity Offering or other corporate transaction.

If the Issuer redeems less than all of the outstanding 2014 Cash Pay Notes, the Trustee shall select the 2014 Cash Pay Notes to be redeemed in the manner described under *Repurchase at the Option of Holders Selection and Notice*.

**2016 Cash Pay Notes**

Except as set forth below, the Issuer is not entitled to redeem 2016 Cash Pay Notes at its option prior to November 15, 2011.

At any time prior to November 15, 2011, the Issuer may redeem all or a part of the 2016 Cash Pay Notes, upon not less than 30 nor more than 60 days' prior notice mailed by first-class mail to the registered address of each Holder of 2016 Cash Pay Notes or otherwise in accordance with the procedures of DTC, at a redemption price equal to 100% of the principal amount of the 2016 Cash Pay Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest and Additional Interest, if any, to the Redemption Date, subject to the rights of Holders of 2016 Cash Pay Notes on the relevant record date to receive interest due on the relevant interest payment date.

On and after November 15, 2011, the Issuer may redeem the 2016 Cash Pay Notes, in whole or in part, upon not less than 30 nor more than 60 days' prior notice mailed by first-class mail to the registered address of each Holder of 2016 Cash Pay Notes or otherwise in accordance with the procedures of DTC, at the redemption prices (expressed as percentages of principal amount of the 2016 Cash Pay Notes to be redeemed) set forth below, plus accrued and unpaid interest thereon and Additional Interest, if any, to the applicable Redemption Date, subject to the right of Holders of 2016 Cash Pay Notes of record on the relevant record



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date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on November 15 of each of the years indicated below:

<b>Year</b>	<b>Percentage</b>
2011	104.625
2012	103.083
2013	101.542
2014 and thereafter	100.000

In addition, until November 15, 2009, the Issuer may, at its option, on one or more occasions redeem up to 35% of the aggregate principal amount of 2016 Cash Pay Notes at a redemption price equal to 109.250% of the aggregate principal amount thereof, plus accrued and unpaid interest thereon and Additional Interest, if any, to the applicable Redemption Date, subject to the right of Holders of 2016 Cash Pay Notes of record on the relevant record date to receive interest due on the relevant interest payment date, with the net cash proceeds of one or more Equity Offerings; *provided* that at least 50% of the sum of the original aggregate principal amount of 2016 Cash Pay Notes issued under the Indenture and the original principal amount of any Additional Notes that are 2016 Cash Pay Notes issued under the Indenture after the Issue Date remains outstanding immediately after the occurrence of each such redemption; *provided further* that each such redemption occurs within 90 days of the date of closing of each such Equity Offering.

Any notice of any redemption may be given prior to the redemption thereof, and any such redemption or notice may, at the Issuer's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of an Equity Offering or other corporate transaction.

If the Issuer redeems less than all of the outstanding 2016 Cash Pay Notes, the Trustee shall select the 2016 Cash Pay Notes to be redeemed in the manner described under *Repurchase at the Option of Holders Selection and Notice*.

***Toggle Notes***

Except as set forth below, the Issuer is not entitled to redeem Toggle Notes at its option prior to November 15, 2011.

At any time prior to November 15, 2011, the Issuer may redeem all or a part of the Toggle Notes, upon not less than 30 nor more than 60 days' prior notice mailed by first-class mail to the registered address of each Holder of Toggle Notes or otherwise in accordance with the procedures of DTC, at a redemption price equal to 100% of the principal amount of the Toggle Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest and Additional Interest, if any, to the Redemption Date, subject to the rights of Holders of Toggle Notes on the relevant record date to receive interest due on the relevant interest payment date.

On and after November 15, 2011, the Issuer may redeem the Toggle Notes, in whole or in part, upon not less than 30 nor more than 60 days' prior notice mailed by first-class mail to the registered address of each Holder of Toggle Notes or otherwise in accordance with the procedures of DTC, at the redemption prices (expressed as percentages of principal amount of the Toggle Notes to be redeemed) set forth below, plus accrued and unpaid interest thereon and Additional Interest, if any, to the applicable Redemption Date, subject to the right of Holders of Toggle Notes of record on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on November 15 of each of the years indicated below:

<b>Year</b>	<b>Percentage</b>
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2011	104.813
2012	103.208
2013	101.604
2014 and thereafter	100.000

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In addition, until November 15, 2009, the Issuer may, at its option, on one or more occasions redeem up to 35% of the aggregate principal amount of Toggle Notes at a redemption price equal to 109.625% of the aggregate principal amount thereof, plus accrued and unpaid interest thereon and Additional Interest, if any, to the applicable Redemption Date, subject to the right of Holders of Toggle Notes of record on the relevant record date to receive interest due on the relevant interest payment date, with the net cash proceeds of one or more Equity Offerings; *provided* that at least 50% of the sum of the original aggregate principal amount of Toggle Notes issued under the Indenture and the original principal amount of any Additional Notes that are Toggle Notes issued under the Indenture after the Issue Date remains outstanding immediately after the occurrence of each such redemption; *provided further* that each such redemption occurs within 90 days of the date of closing of each such Equity Offering.

Any notice of any redemption may be given prior to the redemption thereof, and any such redemption or notice may, at the Issuer's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of an Equity Offering or other corporate transaction.

If the Issuer redeems less than all of the outstanding Toggle Notes, the Trustee shall select the Toggle Notes to be redeemed in the manner described under Repurchase at the Option of Holders Selection and Notice.

## **Repurchase at the Option of Holders**

### ***Change of Control***

The Notes provide that if a Change of Control occurs, unless the Issuer has previously or concurrently mailed a redemption notice with respect to all the outstanding Notes as described under Optional Redemption, the Issuer will make an offer to purchase all of the Notes pursuant to the offer described below (the Change of Control Offer) at a price in cash (the Change of Control Payment) equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Additional Interest, if any, to the date of purchase, subject to the right of Holders of the Notes of record on the relevant record date to receive interest due on the relevant interest payment date. Within 30 days following any Change of Control, the Issuer will send notice of such Change of Control Offer by first-class mail, with a copy to the Trustee, to each Holder of Notes to the address of such Holder appearing in the security register with a copy to the Trustee or otherwise in accordance with the procedures of DTC, with the following information:

- (1) that a Change of Control Offer is being made pursuant to the covenant entitled Change of Control and that all Notes properly tendered pursuant to such Change of Control Offer will be accepted for payment by the Issuer;
- (2) the purchase price and the purchase date, which will be no earlier than 30 days nor later than 60 days from the date such notice is mailed (the *Change of Control Payment Date*);
- (3) that any Note not properly tendered will remain outstanding and continue to accrue interest;
- (4) that unless the Issuer defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;
- (5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender such Notes, with the form entitled Option of Holder to Elect Purchase on the reverse of such Notes completed, to the paying agent specified in the notice at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;
- (6) that Holders will be entitled to withdraw their tendered Notes and their election to require the Issuer to purchase such Notes; *provided* that the paying agent receives, not later than the close of business on the 30th day following the



date of the Change of Control notice, a telegram, facsimile transmission or letter setting forth the name of the Holder of the Notes, the principal amount of Notes tendered for

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purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased;

(7) that if the Issuer is redeeming less than all of the Notes, the Holders of the remaining Notes will be issued new Notes and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered. The unpurchased portion of the Notes must be equal to \$2,000 or an integral multiple of \$1,000 in excess thereof; and

(8) the other instructions, as determined by us, consistent with the covenant described hereunder, that a Holder must follow.

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

On the Change of Control Payment Date, the Issuer will, to the extent permitted by law,

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

(2) deposit with the paying agent an amount equal to the aggregate Change of Control Payment in respect of all Notes or portions thereof so tendered; and

(3) deliver, or cause to be delivered, to the Trustee for cancellation the Notes so accepted together with an Officer's Certificate to the Trustee stating that such Notes or portions thereof have been tendered to and purchased by the Issuer.

The Senior Credit Facilities, and future credit agreements or other agreements relating to Senior Indebtedness to which the Issuer becomes a party may, provide that certain change of control events with respect to the Issuer would constitute a default thereunder (including a Change of Control under the Indenture). If we experience a change of control that triggers a default under our Senior Credit Facilities, we could seek a waiver of such default or seek to refinance our Senior Credit Facilities. In the event we do not obtain such a waiver or refinance the Senior Credit Facilities, such default could result in amounts outstanding under our Senior Credit Facilities being declared due and payable and could cause a Receivables Facility to be wound down.

Our ability to pay cash to the Holders of Notes following the occurrence of a Change of Control may be limited by our then-existing financial resources. Therefore, sufficient funds may not be available when necessary to make any required repurchases.

The Change of Control purchase feature of the Notes may in certain circumstances make more difficult or discourage a sale or takeover of us and, thus, the removal of incumbent management. The Change of Control purchase feature is a result of negotiations between the Initial Purchasers and us. We have no present intention to engage in a transaction involving a Change of Control, although it is possible that we could decide to do so in the future. Subject to the limitations discussed below, we could, in the future, enter into certain transactions, including acquisitions, refinancings or other recapitalizations, that would not constitute a Change of Control under the Indenture, but that could increase the amount of indebtedness outstanding at such time or otherwise affect our capital structure or credit ratings. Restrictions on our ability to incur additional Indebtedness are contained in the covenants described under

Certain Covenants Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock

and Certain Covenants Liens. Such restrictions in the Indenture can be waived only with the consent of the Holders of a majority in principal amount of the Notes then outstanding. Except for the limitations contained in such covenants, however, the Indenture does not contain any covenants or provisions that may afford Holders of the Notes protection in the event of a highly leveraged transaction.

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The Issuer is not required to make a Change of Control Offer following a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the Indenture applicable to a Change of Control Offer made by us and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer. Notwithstanding anything to the contrary herein, a Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.

The definition of *Change of Control* includes a disposition of all or substantially all of the assets of the Issuer to any Person. Although there is a limited body of case law interpreting the phrase *substantially all*, there is no precise established definition of the phrase under applicable law. Accordingly, in certain circumstances there may be a degree of uncertainty as to whether a particular transaction would involve a disposition of *all or substantially all* of the assets of the Issuer. As a result, it may be unclear as to whether a Change of Control has occurred and whether a Holder of Notes may require the Issuer to make an offer to repurchase the Notes as described above.

The provisions under the Indenture relating to the Issuer's obligation to make an offer to repurchase the Notes as a result of a Change of Control may be waived or modified with the written consent of the Holders of a majority in principal amount of the Notes.

## ***Asset Sales***

The Indenture provides that the Issuer will not, and will not permit any of its Restricted Subsidiaries to consummate, directly or indirectly, an Asset Sale, unless:

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

(2) except in the case of a Permitted Asset Swap, at least 75% of the consideration therefor received by the Issuer or such Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents; *provided* that the amount of:

(a) any liabilities (as shown on the Issuer's or such Restricted Subsidiary's most recent balance sheet or in the footnotes thereto) of the Issuer or such Restricted Subsidiary, other than liabilities that are by their terms subordinated to the Notes, that are assumed by the transferee of any such assets and for which the Issuer and all of its Restricted Subsidiaries have been validly released by all creditors in writing,

(b) any securities received by the Issuer or such Restricted Subsidiary from such transferee that are converted by the Issuer or such Restricted Subsidiary into cash (to the extent of the cash received) within 180 days following the closing of such Asset Sale, and

(c) any Designated Non-cash Consideration received by the Issuer or such Restricted Subsidiary in such Asset Sale having an aggregate fair market value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (c) that is at that time outstanding, not to exceed 5% of Total Assets at the time of the receipt of such Designated Non-cash Consideration, with the fair market value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value, shall be deemed to be cash for purposes of this provision and for no other purpose.

Within 450 days after the receipt of any Net Proceeds of any Asset Sale, the Issuer or such Restricted Subsidiary, at its option, may apply the Net Proceeds from such Asset Sale,

(1) to permanently reduce:

(a) Obligations under Priority Lien Obligations and to correspondingly reduce commitments with respect thereto;

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- (b) Obligations under Senior Indebtedness (other than any Junior Lien Obligation) that is secured by a Lien permitted under the Indenture (which Lien is senior to the Lien of the Notes with respect to the Collateral), and to correspondingly reduce commitments with respect thereto;
- (c) Obligations under Junior Lien Obligations (and to correspondingly reduce commitments with respect thereto) through open-market purchases (to the extent such purchases are at or above 100% of the principal amount thereof) or by making an Asset Sale Offer or a Collateral Asset Sale Offer in accordance with the procedures set forth below; *provided* that the Issuer shall equally and ratably reduce Obligations under the Notes as provided under Optional Redemption, through open-market purchases or otherwise by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer or a Collateral Asset Sale Offer) to all Holders to purchase their Notes at 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, on the amount of the Notes that would otherwise be prepaid;
- (d) Obligations under the Existing Notes which have a final maturity date (as in effect on the Issue Date) on or prior to November 15, 2016; *provided* that, at the time of, and after giving effect to, such repurchase, redemption or defeasance, the aggregate amount of Net Proceeds used to repurchase, redeem or defease Existing Notes pursuant to this subclause (d) following the Issue Date shall not exceed 5% of the consolidated total assets of the Issuer and its subsidiaries at such time; or
- (e) Indebtedness of a Restricted Subsidiary that is not a Guarantor, other than Indebtedness owed to the Issuer or another Restricted Subsidiary (or any affiliate thereof);
- (2) to make (a) an Investment in any one or more businesses, *provided* that such Investment in any business is in the form of the acquisition of Capital Stock and results in the Issuer or another of its Restricted Subsidiaries, as the case may be, owning an amount of the Capital Stock of such business such that it constitutes a Restricted Subsidiary, (b) capital expenditures or (c) acquisitions of other assets, in each of (a), (b) and (c), used or useful in a Similar Business; or
- (3) to make an investment in (a) any one or more businesses, *provided* that such Investment in any business is in the form of the acquisition of Capital Stock and results in the Issuer or another of its Restricted Subsidiaries, as the case may be, owning an amount of the Capital Stock of such business such that it constitutes a Restricted Subsidiary, (b) properties or (c) acquisitions of other assets that, in each of (a), (b) and (c), replace the businesses, properties and/or assets that are the subject of such Asset Sale;
- provided* that, in the case of clauses (2) and (3) above, a binding commitment shall be treated as a permitted application of the Net Proceeds from the date of such commitment so long as the Issuer, or such other Restricted Subsidiary enters into such commitment with the good faith expectation that such Net Proceeds will be applied to satisfy such commitment within 180 days of such commitment (an *Acceptable Commitment* ) and, in the event any Acceptable Commitment is later cancelled or terminated for any reason before the Net Proceeds are applied in connection therewith, the Issuer or such Restricted Subsidiary enters into another Acceptable Commitment (a *Second Commitment* ) within 180 days of such cancellation or termination; *provided, further*, that if any Second Commitment is later cancelled or terminated for any reason before such Net Proceeds are applied, then such Net Proceeds shall constitute Excess Proceeds.

Any Net Proceeds from Asset Sales of Collateral that are not invested or applied as set forth in the first sentence of the preceding paragraph will be deemed to constitute *Collateral Excess Proceeds*. When the aggregate amount of Collateral Excess Proceeds exceeds \$200.0 million, the Issuer shall make an offer to all Holders of the Notes and, if required by the terms of any Junior Lien Obligations which are not subordinated to the Notes or Obligations secured by a Lien permitted under the Indenture (which Lien is not subordinate to the Lien of the Notes with respect to the

Collateral), to the holders of such Junior Lien Obligations or such other Obligations (a *Collateral Asset Sale Offer* ), to purchase the maximum aggregate principal amount of the Notes and such Junior Lien Obligations or such other Obligations that is a minimum of \$2,000 or an integral multiple of \$1,000 in excess thereof that may be purchased out of the Collateral Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof, plus accrued and unpaid interest and Additional Interest, if any, to the date fixed for the closing of such offer, in accordance with the

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procedures set forth in the Indenture. The Issuer will commence a Collateral Asset Sale Offer with respect to Collateral Excess Proceeds within ten Business Days after the date that Collateral Excess Proceeds exceed \$200.0 million by mailing the notice required pursuant to the terms of the Indenture, with a copy to the Trustee.

Any Net Proceeds from Asset Sales of non-Collateral that are not invested or applied as provided and within the time period set forth in the first sentence of the second preceding paragraph will be deemed to constitute *Excess Proceeds*. When the aggregate amount of Excess Proceeds exceeds \$200.0 million, the Issuer shall make an offer to all Holders of the Notes and, if required or permitted by the terms of any Senior Indebtedness, to the holders of such Senior Indebtedness (an *Asset Sale Offer*), to purchase the maximum aggregate principal amount of the Notes and such Senior Indebtedness that is a minimum of \$2,000 or an integral multiple of \$1,000 in excess thereof that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof, plus accrued and unpaid interest and Additional Interest, if any, to the date fixed for the closing of such offer, in accordance with the procedures set forth in the Indenture. The Issuer will commence an Asset Sale Offer with respect to Excess Proceeds within ten Business Days after the date that Excess Proceeds exceed \$200.0 million by mailing the notice required pursuant to the terms of the Indenture, with a copy to the Trustee.

To the extent that the aggregate amount of Notes and such Junior Lien Obligations or Obligations secured by a Lien permitted by the Indenture (which Lien is not subordinate to the Lien of the Notes with respect to the Collateral) tendered pursuant to a Collateral Asset Sale Offer is less than the Collateral Excess Proceeds, the Issuer may use any remaining Collateral Excess Proceeds for general corporate purposes, subject to other covenants contained in the Indenture. To the extent that the aggregate amount of Notes and such Senior Indebtedness tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Issuer may use any remaining Excess Proceeds for general corporate purposes, subject to other covenants contained in the Indenture. If the aggregate principal amount of Notes or Junior Lien Obligations or such other Obligations surrendered by such holders thereof exceeds the amount of Collateral Excess Proceeds, the Trustee shall select the Notes and such Junior Lien Obligations or such other Obligations to be purchased on a pro rata basis based on the accreted value or principal amount of the Notes or such Junior Lien Obligations or such other Obligations tendered. If the aggregate principal amount of Notes or the Senior Indebtedness surrendered by such holders thereof exceeds the amount of Excess Proceeds, the Trustee shall select the Notes and such Senior Indebtedness to be purchased on a pro rata basis based on the accreted value or principal amount of the Notes or such Senior Indebtedness tendered. Upon completion of any such Collateral Asset Sale Offer or Asset Sale Offer, the amount of Collateral Excess Proceeds or Excess Proceeds, as the case may be, shall be reset at zero. Additionally, the Issuer may, at its option, make a Collateral Asset Sale Offer or an Asset Sale Offer using proceeds from any Asset Sale at any time after consummation of such Asset Sale; *provided* that such Collateral Asset Sale Offer or Asset Sale Offer shall be in an aggregate amount of not less than \$50.0 million. Upon consummation of such Collateral Asset Sale Offer or Asset Sale Offer, any Net Proceeds not required to be used to purchase Notes shall not be deemed Excess Proceeds.

Pending the final application of any Net Proceeds pursuant to this covenant, the holder of such Net Proceeds may apply such Net Proceeds temporarily to reduce Indebtedness outstanding under a revolving credit facility or otherwise invest such Net Proceeds in any manner not prohibited by the Indenture.

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

***Selection and Notice***



If the Issuer is redeeming less than all of the Notes issued by it at any time, the Trustee will select the Notes to be redeemed (a) if the Notes are listed on any national securities exchange, in compliance with the

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requirements of the principal national securities exchange on which the Notes are listed, (b) on a pro rata basis to the extent practicable or (c) by lot or such other similar method in accordance with the procedures of DTC.

Notices of purchase or redemption shall be mailed by first-class mail, postage prepaid, at least 30 but not more than 60 days before the purchase or Redemption Date to each Holder of Notes at such Holder's registered address or otherwise in accordance with the procedures of DTC, 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. If any Note is to be purchased or redeemed in part only, any notice of purchase or redemption that relates to such Note shall state the portion of the principal amount thereof that has been or is to be purchased or redeemed.

The Issuer will issue a new Note in a principal amount equal to the unredeemed portion of the original Note in the name of the Holder upon cancellation of the original Note. Notes called for redemption become due on the date fixed for redemption. On and after the Redemption Date, interest ceases to accrue on Notes or portions thereof called for redemption.

## **Certain Covenants**

Set forth below are summaries of certain covenants contained in the Indenture. If on any date following the Issue Date (i) the Notes have Investment Grade Ratings from both Rating Agencies, and (ii) no Default has occurred and is continuing under the Indenture (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a *Covenant Suspension Event*), the Issuer and the Restricted Subsidiaries will not be subject to the following covenants (collectively, the *Suspended Covenants*):

- (1) Repurchase at the Option of Holders ;
- (2) Limitation on Restricted Payments ;
- (3) Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock ;
- (4) clause (4) of the first paragraph of Merger, Consolidation or Sale of All or Substantially All Assets ;
- (5) Transactions with Affiliates ; and
- (6) Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.

In the event that the Issuer and the Restricted Subsidiaries are not subject to the Suspended Covenants under the Indenture for any period of time as a result of the foregoing, and on any subsequent date (the *Reversion Date*) one or both of the Rating Agencies (a) withdraw their Investment Grade Rating or downgrade the rating assigned to the Notes below an Investment Grade Rating and/or (b) the Issuer or any of its Affiliates enter into an agreement to effect a transaction that would result in a Change of Control and one or more of the Rating Agencies indicate that if consummated, such transaction (alone or together with any related recapitalization or refinancing transactions) would cause such Rating Agency to withdraw its Investment Grade Rating or downgrade the ratings assigned to the Notes below an Investment Grade Rating, then the Issuer and the Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants under the Indenture with respect to future events, including, without limitation, a proposed transaction described in clause (b) above.

The period of time between the Suspension Date and the Reversion Date is referred to in this description as the *Suspension Period*. Additionally, upon the occurrence of a Covenant Suspension Event, the amount of Excess

Proceeds from Net Proceeds shall be reset at zero. In the event of any such reinstatement, no action taken or omitted to be taken by the Issuer or any of its Restricted Subsidiaries prior to such reinstatement will give rise to a Default or Event of Default under the Indentures with respect to Notes; provided that (1) with respect to Restricted Payments made after any such reinstatement, the amount of Restricted Payments made will be calculated as though the covenant described under the caption      Limitation on Restricted Payments

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had been in effect prior to, but not during the Suspension Period, provided that any Subsidiaries designated as Unrestricted Subsidiaries during the Suspension Period shall automatically become Restricted Subsidiaries on the Reversion Date (subject to the Issuer's right to subsequently designate them as Unrestricted Subsidiaries in compliance with the covenants set out below) and (2) all Indebtedness incurred, or Disqualified Stock or Preferred Stock issued, during the Suspension Period will be classified to have been incurred or issued pursuant to clause (3) of the second paragraph of Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock.

There can be no assurance that the Notes will ever achieve or maintain Investment Grade Ratings.

***Limitation on Restricted Payments***

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

(I) declare or pay any dividend or make any payment or distribution on account of the Issuer's, or any of its Restricted Subsidiaries' Equity Interests, including any dividend or distribution payable in connection with any merger or consolidation other than:

(a) dividends or distributions by the Issuer payable solely in Equity Interests (other than Disqualified Stock) of the Issuer; or

(b) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary other than a Wholly-Owned Subsidiary, the Issuer or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities;

(II) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Issuer or any direct or indirect parent of the Issuer, including in connection with any merger or consolidation;

(III) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value in each case, prior to any scheduled repayment, sinking fund payment or maturity, any Subordinated Indebtedness, other than:

(a) Indebtedness permitted under clauses (7) and (8) of the covenant described under Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock; or

(b) the purchase, repurchase or other acquisition of Subordinated Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or acquisition; or

(IV) make any Restricted Investment

(all such payments and other actions set forth in clauses (I) through (IV) above (other than any exception thereto) being collectively referred to as *Restricted Payments*), unless, at the time of such Restricted Payment:

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

(2) immediately after giving effect to such transaction on a *pro forma* basis, the Issuer could incur \$1.00 of additional Indebtedness under the provisions of the first paragraph of the covenant described under Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock; and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Issuer and its Restricted Subsidiaries after the Issue Date (including Restricted Payments permitted by clauses (1), (2) (with respect to the payment of dividends on Refunding Capital Stock (as defined below) pursuant to clause (b) thereof only), (6)(c), (9) and (14) of the next succeeding paragraph,

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but excluding all other Restricted Payments permitted by the next succeeding paragraph), is less than the sum of (without duplication):

(a) 50% of the Consolidated Net Income of the Issuer for the period (taken as one accounting period) beginning October 1, 2006, to the end of the Issuer's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment, or, in the case such Consolidated Net Income for such period is a deficit, minus 100% of such deficit; *plus*

(b) 100% of the aggregate net cash proceeds and the fair market value, as determined in good faith by the Issuer, of marketable securities or other property received by the Issuer since immediately after the Issue Date (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness, Disqualified Stock or Preferred Stock pursuant to clause (12)(a) of the second paragraph of Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock ) from the issue or sale of:

(i) (A) Equity Interests of the Issuer, including Treasury Capital Stock (as defined below), but excluding cash proceeds and the fair market value, as determined in good faith by the Issuer, of marketable securities or other property received from the sale of:

(x) Equity Interests to members of management, directors or consultants of the Issuer, any direct or indirect parent company of the Issuer and the Issuer's Subsidiaries after the Issue Date to the extent such amounts have been applied to Restricted Payments made in accordance with clause (4) of the next succeeding paragraph; and

(y) Designated Preferred Stock; and

(B) to the extent such net cash proceeds are actually contributed to the Issuer, Equity Interests of the Issuer's direct or indirect parent companies (excluding contributions of the proceeds from the sale of Designated Preferred Stock of such companies or contributions to the extent such amounts have been applied to Restricted Payments made in accordance with clause (4) of the next succeeding paragraph); or

(ii) debt securities of the Issuer that have been converted into or exchanged for such Equity Interests of the Issuer;

provided, *however*, that this clause (b) shall not include the proceeds from (V) Refunding Capital Stock (as defined below), (W) Equity Interests or convertible debt securities of the Issuer sold to a Restricted Subsidiary, as the case may be, (X) Disqualified Stock or debt securities that have been converted into Disqualified Stock, (Y) Excluded Contributions or (Z) the Delayed Equity Amount; *plus*

(c) 100% of the aggregate amount of cash and the fair market value, as determined in good faith by the Issuer, of marketable securities or other property contributed to the capital of the Issuer following the Issue Date (other than net cash proceeds to the extent such net cash proceeds (i) have been used to incur Indebtedness, Disqualified Stock or Preferred Stock pursuant to clause (12)(a) of the second paragraph of Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock , (ii) are contributed by a Restricted Subsidiary, (iii) constitute Excluded Contributions or (iv) constitute the Delayed Equity Amount); *plus*

(d) 100% of the aggregate amount received in cash and the fair market value, as determined in good faith by the Issuer, of marketable securities or other property received by means of:

(i) the sale or other disposition (other than to the Issuer or a Restricted Subsidiary) of Restricted Investments made by the Issuer or its Restricted Subsidiaries and repurchases and redemptions of such Restricted Investments from the Issuer or its Restricted Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute

Restricted Investments by the Issuer or its Restricted Subsidiaries, in each case after the Issue Date; or

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(ii) the sale (other than to the Issuer or a Restricted Subsidiary) of the stock of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary (other than in each case to the extent the Investment in such Unrestricted Subsidiary was made by the Issuer or a Restricted Subsidiary pursuant to clause (7) of the next succeeding paragraph or to the extent such Investment constituted a Permitted Investment) or a dividend from an Unrestricted Subsidiary after the Issue Date; *plus*

(e) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary after the Issue Date, the fair market value of the Investment in such Unrestricted Subsidiary, as determined by the Issuer in good faith (or if such fair market value exceeds \$250.0 million, in writing by an Independent Financial Advisor), at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary other than to the extent the Investment in such Unrestricted Subsidiary was made by the Issuer or a Restricted Subsidiary pursuant to clause (7) of the next succeeding paragraph or to the extent such Investment constituted a Permitted Investment.

The foregoing provisions will not prohibit:

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

(2) (a) the redemption, repurchase, retirement or other acquisition of any Equity Interests ( *Treasury Capital Stock* ) or Subordinated Indebtedness of the Issuer or any Equity Interests of any direct or indirect parent company of the Issuer, in exchange for, or out of the proceeds of the substantially concurrent sale (other than to a Restricted Subsidiary) of, Equity Interests of the Issuer or any direct or indirect parent company of the Issuer to the extent contributed to the Issuer (in each case, other than any Disqualified Stock) ( *Refunding Capital Stock* ) and (b) if immediately prior to the retirement of Treasury Capital Stock, the declaration and payment of dividends thereon was permitted under clause (6) of this paragraph, the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of any direct or indirect parent company of the Issuer) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that were declarable and payable on such Treasury Capital Stock immediately prior to such retirement;

(3) the redemption, repurchase or other acquisition or retirement of Subordinated Indebtedness of the Issuer or a Guarantor made in exchange for, or out of the proceeds of the substantially concurrent sale of, new Indebtedness of the Issuer or a Guarantor, as the case may be, which is incurred in compliance with *Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock* so long as:

(a) the principal amount (or accreted value) of such new Indebtedness does not exceed the principal amount of (or accreted value, if applicable), plus any accrued and unpaid interest on, the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired for value, plus the amount of any reasonable premium (including reasonable tender premiums), defeasance costs and any reasonable fees and expenses incurred in connection with the issuance of such new Indebtedness;

(b) such new Indebtedness is subordinated to the Notes or the applicable Guarantee at least to the same extent as such Subordinated Indebtedness so purchased, exchanged, redeemed, repurchased, acquired or retired for value;

(c) such new Indebtedness has a final scheduled maturity date equal to or later than the final scheduled maturity date of the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired; and

(d) such new Indebtedness has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired;





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(4) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests (other than Disqualified Stock) of the Issuer or any of its direct or indirect parent companies held by any future, present or former employee, director or consultant of the Issuer, any of its Subsidiaries or any of its direct or indirect parent companies pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, including any Equity Interests rolled over by management of the Company or any of its direct or indirect parent companies in connection with the Transaction; *provided, however*, that the aggregate Restricted Payments made under this clause (4) do not exceed in any calendar year \$75.0 million (which shall increase to \$150.0 million subsequent to the consummation of an underwritten public Equity Offering by the Issuer or any direct or indirect parent entity of the Issuer) (with unused amounts in any calendar year being carried over to succeeding calendar years subject to a maximum (without giving effect to the following proviso) of \$225.0 million in any calendar year (which shall increase to \$450.0 million subsequent to the consummation of an underwritten public Equity Offering by the Issuer or any direct or indirect parent corporation of the Issuer)); *provided further* that such amount in any calendar year may be increased by an amount not to exceed:

(a) the cash proceeds from the sale of Equity Interests (other than Disqualified Stock) of the Issuer and, to the extent contributed to the Issuer, Equity Interests of any of the Issuer's direct or indirect parent companies, in each case to members of management, directors or consultants of the Issuer, any of its Subsidiaries or any of its direct or indirect parent companies that occurs after the Issue Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (3) of the preceding paragraph; *plus*

(b) the cash proceeds of key man life insurance policies received by the Issuer or its Restricted Subsidiaries after the Issue Date; *less*

(c) the amount of any Restricted Payments previously made with the cash proceeds described in clauses (a) and (b) of this clause (4);

and *provided, further*, that cancellation of Indebtedness owing to the Issuer or any Restricted Subsidiary from members of management of the Issuer, any of the Issuer's direct or indirect parent companies or any of the Issuer's Restricted Subsidiaries in connection with a repurchase of Equity Interests of the Issuer or any of its direct or indirect parent companies will not be deemed to constitute a Restricted Payment for purposes of this covenant or any other provision of the Indenture;

(5) the declaration and payment of dividends to holders of any class or series of Disqualified Stock of the Issuer or any of its Restricted Subsidiaries or any class or series of Preferred Stock of any Restricted Subsidiary issued in accordance with the covenant described under Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock to the extent such dividends are included in the definition of Fixed Charges ;

(6) (a) the declaration and payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) issued by the Issuer after the Issue Date;

(b) the declaration and payment of dividends to a direct or indirect parent company of the Issuer, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) of such parent corporation issued after the Issue Date; *provided* that the amount of dividends paid pursuant to this clause (b) shall not exceed the aggregate amount of cash actually contributed to the Issuer from the sale of such Designated Preferred Stock; or

(c) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock in excess of the dividends declarable and payable thereon pursuant to clause (2) of this paragraph;

*provided, however*, in the case of each of (a) and (c) of this clause (6), that for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the

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date of issuance of such Designated Preferred Stock or the declaration of such dividends on Refunding Capital Stock that is Preferred Stock, after giving effect to such issuance or declaration on a *pro forma* basis, the Issuer and its Restricted Subsidiaries on a consolidated basis would have had a Fixed Charge Coverage Ratio of at least 2.00 to 1.00;

(7) Investments in Unrestricted Subsidiaries having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (7) that are at the time outstanding, without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities, not to exceed 2.5% of Total Assets at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(8) repurchases of Equity Interests deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

(9) the declaration and payment of dividends on the Issuer's common stock (or the payment of dividends to any direct or indirect parent entity to fund a payment of dividends on such entity's common stock), following consummation of the first public offering of the Issuer's common stock or the common stock of any of its direct or indirect parent companies after the Issue Date, of up to 6% per annum of the net cash proceeds received by or contributed to the Issuer in or from any such public offering, other than public offerings with respect to the Issuer's common stock registered on Form S-8 and other than any public sale constituting an Excluded Contribution;

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

(11) other Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (11) not to exceed 3.0% of Total Assets at the time made;

(12) distributions or payments of Receivables Fees;

(13) any Restricted Payment made as part of the Transaction and the fees and expenses related thereto or used to fund amounts owed to Affiliates (including dividends to any direct or indirect parent of the Issuer to permit payment by such parent of such amount), in each case to the extent permitted by the covenant described under Transactions with Affiliates ;

(14) the repurchase, redemption or other acquisition or retirement for value of any Subordinated Indebtedness in accordance with the provisions similar to those described under the captions Repurchase at the Option of Holders Change of Control and Repurchase at the Option of Holders Asset Sales ; *provided* that all Notes tendered by Holders in connection with a Change of Control Offer, Collateral Asset Sale Offer or Asset Sale Offer, as applicable, have been repurchased, redeemed or acquired for value;

(15) the declaration and payment of dividends by the Issuer to, or the making of loans to, any direct or indirect parent in amounts required for any direct or indirect parent companies to pay, in each case without duplication,

(a) franchise and excise taxes and other fees, taxes and expenses required to maintain their corporate existence;

(b) foreign, federal, state and local income taxes, to the extent such income taxes are attributable to the income of the Issuer and its Restricted Subsidiaries and, to the extent of the amount actually received from its Unrestricted Subsidiaries, in amounts required to pay such taxes to the extent attributable to the income of such Unrestricted Subsidiaries; *provided* that in each case the amount of such payments in any fiscal year does not exceed the amount that the Issuer and its Restricted Subsidiaries would be required to pay in respect of foreign, federal, state and local

taxes for such fiscal year were the Issuer, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent described above) to pay such taxes separately from any such parent entity;

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(c) for as long as Hercules Holding II, LLC is a parent of the Issuer, distributions equal to any taxable income of Hercules Holding II, LLC resulting from the Hedging Arrangements multiplied by 45%;

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

(e) general corporate operating and overhead costs and expenses of any direct or indirect parent company of the Issuer to the extent such costs and expenses are attributable to the ownership or operation of the Issuer and its Restricted Subsidiaries; and

(f) fees and expenses other than to Affiliates of the Issuer related to any unsuccessful equity or debt offering of such parent entity; and

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

*provided, however*, that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (11) and (16), no Default shall have occurred and be continuing or would occur as a consequence thereof.

As of the Issue Date, all of the Issuer's Subsidiaries were Restricted Subsidiaries. The Issuer will not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the last sentence of the definition of Unrestricted Subsidiary. For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Issuer and its Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Restricted Payments in an amount determined as set forth in the last sentence of the definition of Investment. Such designation will be permitted only if a Restricted Payment in such amount would be permitted at such time, whether pursuant to the first paragraph of this covenant or under clause (7), (10) or (11) of the second paragraph of this covenant, or pursuant to the definition of Permitted Investments, and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. Unrestricted Subsidiaries are not subject to any of the restrictive covenants set forth in the Indenture.

***Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock***

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise (collectively, *incur* and collectively, an *incurrence* ) with respect to any Indebtedness (including Acquired Indebtedness), and the Issuer will not issue any shares of Disqualified Stock and will not permit any Restricted Subsidiary to issue any shares of Disqualified Stock or Preferred Stock; *provided, however*, that the Issuer may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock, and any of its Restricted Subsidiaries may incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Stock and issue shares of Preferred Stock, if the Fixed Charge Coverage Ratio on a consolidated basis for the Issuer and its Restricted Subsidiaries most recently ended four fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued would have been at least 2.00 to 1.00, determined on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), as if the additional Indebtedness had been incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of such four-quarter period; *provided, further*, that Restricted Subsidiaries that are not Guarantors may not incur Indebtedness or Disqualified Stock or Preferred Stock if, after giving *pro forma* effect to such incurrence or issuance (including a *pro forma*

application of the net proceeds therefrom), more than an aggregate of \$2,000.0 million of Indebtedness or Disqualified Stock or Preferred Stock of Restricted Subsidiaries that are not Guarantors would be outstanding pursuant to this paragraph and clauses (12), (14) and (19) below at such time.

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The foregoing limitations will not apply to:

- (1) the incurrence of Indebtedness under (x) Credit Facilities (other than the ABL Facility) by the Issuer or any of its Restricted Subsidiaries and the issuance and creation of letters of credit and bankers' acceptances thereunder (with letters of credit and bankers' acceptances being deemed to have a principal amount equal to the face amount thereof), up to an aggregate principal amount of \$16,500.0 million outstanding at any one time and (y) the ABL Facility by the Issuer or any of its Restricted Subsidiaries and the issuance and creation of letters of credit and bankers' acceptances thereunder (with letters of credit and bankers' acceptances being deemed to have a principal amount equal to the face amount thereof), up to an aggregate principal amount equal to the ABL Facility Cap;
- (2) the incurrence by the Issuer and any Guarantor of Indebtedness represented by the Notes (including any PIK Notes and any Guarantee) (other than any Additional Notes (including Guarantees thereof));
- (3) Indebtedness of the Issuer and its Restricted Subsidiaries in existence on the Issue Date (other than Indebtedness described in clauses (1) and (2)), including the Existing Notes;
- (4) Indebtedness consisting of Capitalized Lease Obligations and Purchase Money Obligations; so long as such Indebtedness exists at the date of such purchase, lease or improvement, or is created within 270 days thereafter;
- (5) Indebtedness incurred by the Issuer or any of its Restricted Subsidiaries constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business, including letters of credit in respect of workers' compensation, medical malpractice or employee health claims, or other Indebtedness with respect to reimbursement-type obligations regarding workers' compensation, medical malpractice or employee health claims; *provided, however*, that upon the drawing of such letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;
- (6) Indebtedness arising from agreements of the Issuer or its Restricted Subsidiaries providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary for the purpose of financing such acquisition; *provided, however*, that such Indebtedness is not reflected on the balance sheet of the Issuer, or any of its Restricted Subsidiaries (contingent obligations referred to in a footnote to financial statements and not otherwise reflected on the balance sheet will not be deemed to be reflected on such balance sheet for purposes of this clause (6));
- (7) Indebtedness of the Issuer to a Restricted Subsidiary; *provided* that any such Indebtedness owing to a Restricted Subsidiary that is not a Guarantor is expressly subordinated in right of payment to the Notes; *provided, further*, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Issuer or another Restricted Subsidiary) shall be deemed, in each case, to be an incurrence of such Indebtedness;
- (8) Indebtedness of a Restricted Subsidiary to the Issuer or another Restricted Subsidiary; *provided* that if a Guarantor incurs such Indebtedness to a Restricted Subsidiary that is not a Guarantor, such Indebtedness is expressly subordinated in right of payment to the Guarantee of the Notes of such Guarantor; *provided, further*, that any subsequent transfer of any such Indebtedness (except to the Issuer or another Restricted Subsidiary) shall be deemed, in each case, to be an incurrence of such Indebtedness not permitted by this clause;
- (9) shares of Preferred Stock of a Restricted Subsidiary issued to the Issuer or another Restricted Subsidiary; *provided* that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred



Stock (except to the Issuer or another of its Restricted

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Subsidiaries) shall be deemed in each case to be an issuance of such shares of Preferred Stock not permitted by this clause;

(10) Hedging Obligations (excluding Hedging Obligations entered into for speculative purposes) for the purpose of limiting interest rate risk with respect to any Indebtedness permitted to be incurred pursuant to Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock, exchange rate risk or commodity pricing risk;

(11) obligations in respect of performance, bid, appeal and surety bonds and completion guarantees provided by the Issuer or any of its Restricted Subsidiaries in the ordinary course of business;

(12) (a) Indebtedness or Disqualified Stock of the Issuer and Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any Restricted Subsidiary equal to 200.0% of the net cash proceeds received by the Issuer since immediately after the Issue Date from the issue or sale of Equity Interests of the Issuer or cash contributed to the capital of the Issuer (in each case, other than Excluded Contributions or proceeds of Disqualified Stock or sales of Equity Interests to the Issuer or any of its Subsidiaries) as determined in accordance with clauses (3)(b) and (3)(c) of the first paragraph of Limitation on Restricted Payments to the extent such net cash proceeds or cash have not been applied pursuant to such clauses to make Restricted Payments or to make other Investments, payments or exchanges pursuant to the second paragraph of Limitation on Restricted Payments or to make Permitted Investments (other than Permitted Investments specified in clauses (1) and (3) of the definition thereof) and (b) Indebtedness or Disqualified Stock of Issuer and Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any Restricted Subsidiary not otherwise permitted hereunder in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred pursuant to this clause (12)(b), does not at any one time outstanding exceed \$1,500.0 million; *provided, however* that on a pro forma basis, together with any amounts incurred and outstanding by Restricted Subsidiaries that are not Guarantors pursuant to the second proviso to the first paragraph of this covenant and clauses (14) and (19), no more than \$2,000.0 million of Indebtedness, Disqualified Stock or Preferred Stock at any one time outstanding and incurred pursuant to this clause (12)(b) shall be incurred by Restricted Subsidiaries that are not Guarantors (it being understood that any Indebtedness, Disqualified Stock or Preferred Stock incurred pursuant to this clause (12)(b) shall cease to be deemed incurred or outstanding for purposes of this clause (12)(b) but shall be deemed incurred for the purposes of the first paragraph of this covenant from and after the first date on which the Issuer or such Restricted Subsidiary could have incurred such Indebtedness, Disqualified Stock or Preferred Stock under the first paragraph of this covenant without reliance on this clause (12)(b));

(13) the incurrence or issuance by the Issuer or any Restricted Subsidiary of Indebtedness, Disqualified Stock or Preferred Stock which serves to refund or refinance any Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any Restricted Subsidiary incurred as permitted under the first paragraph of this covenant and clauses (2), (3), (4) and (12)(a) above, this clause (13) and clause (14) below or any Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any Restricted Subsidiary issued to so refund or refinance such Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or any Restricted Subsidiary including additional Indebtedness, Disqualified Stock or Preferred Stock incurred to pay premiums (including reasonable tender premiums), defeasance costs and fees in connection therewith (the *Refinancing Indebtedness* ) prior to its respective maturity; *provided, however*, that such Refinancing Indebtedness:

(a) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refunded or refinanced,

(b) to the extent such Refinancing Indebtedness refinances (i) Indebtedness subordinated or *pari passu* to the Notes or any Guarantee thereof, such Refinancing Indebtedness is subordinated or *pari passu* to the Notes or the Guarantee at least to the same extent as the Indebtedness being refinanced

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or refunded or (ii) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness must be Disqualified Stock or Preferred Stock, respectively, and

(c) shall not include Indebtedness, Disqualified Stock or Preferred Stock of a Subsidiary of the Issuer that is not a Guarantor that refinances Indebtedness, Disqualified Stock or Preferred Stock of the Issuer or a Guarantor;

and, *provided further*, that subclause (a) of this clause (13) will not apply to any refunding or refinancing of any Priority Lien Obligations and Obligations secured by Permitted Liens;

(14) Indebtedness, Disqualified Stock or Preferred Stock of (x) the Issuer or a Restricted Subsidiary incurred to finance an acquisition or (y) Persons that are acquired by the Issuer or any Restricted Subsidiary or merged into the Issuer or a Restricted Subsidiary in accordance with the terms of the Indenture; *provided* that after giving effect to such acquisition or merger, either

(a) the Issuer would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first sentence of this covenant, or

(b) the Fixed Charge Coverage Ratio of the Issuer and the Restricted Subsidiaries is greater than immediately prior to such acquisition or merger;

*provided, however* that on a pro forma basis, together with amounts incurred and outstanding pursuant to the second proviso to the first paragraph of this covenant and clauses (12) and (19), no more than \$2,000.0 million of Indebtedness, Disqualified Stock or Preferred Stock at any one time outstanding and incurred by Restricted Subsidiaries that are not Guarantors pursuant to this clause (14) shall be incurred and outstanding;

(15) 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; *provided* that such Indebtedness is extinguished within two Business Days of its incurrence;

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

(17) (a) any guarantee by the Issuer or a Restricted Subsidiary of Indebtedness or other obligations of any Restricted Subsidiary, so long as the incurrence of such Indebtedness incurred by such Restricted Subsidiary is permitted under the terms of the Indenture, or (b) any guarantee by a Restricted Subsidiary of Indebtedness of the Issuer; *provided* that such guarantee is incurred in accordance with the covenant described below under Limitation on Guarantees of Indebtedness by Restricted Subsidiaries ;

(18) Indebtedness of Foreign Subsidiaries of the Issuer in an amount not to exceed at any one time outstanding and together with any other Indebtedness incurred under this clause (18) 7.5% of the Total Assets of the Foreign Subsidiaries (it being understood that any Indebtedness incurred pursuant to this clause (18) shall cease to be deemed incurred or outstanding for purposes of this clause (18) but shall be deemed incurred for the purposes of the first paragraph of this covenant from and after the first date on which the Issuer or such Restricted Subsidiaries could have incurred such Indebtedness under the first paragraph of this covenant without reliance on this clause (18));

(19) Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary incurred to finance or assumed in connection with an acquisition in a principal amount not to exceed \$200.0 million in the aggregate at any one time outstanding together with all other Indebtedness, Disqualified Stock and/or Preferred Stock issued under this clause

(19) (it being understood that any Indebtedness, Disqualified Stock or Preferred Stock incurred pursuant to this

clause (19) shall cease to be deemed incurred or outstanding for purposes of this clause (19) but shall be deemed incurred for the purposes of the first paragraph of this covenant from and after the first date on which such Restricted Subsidiary could have incurred such Indebtedness, Disqualified Stock or Preferred Stock under the first paragraph of this covenant without reliance on this clause (19)); *provided, however*, that, on a pro forma basis, together

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with amounts incurred and outstanding by Restricted Subsidiaries that are not Guarantors pursuant to the second proviso to the first paragraph of this covenant and clauses (12) and (14), no more than \$2,000.0 million of Indebtedness would be incurred and outstanding by Restricted Subsidiaries that are not Guarantors;

(20) Indebtedness of the Issuer or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, incurred in the ordinary course of business;

(21) Indebtedness consisting of Indebtedness issued by the Issuer or any of its Restricted Subsidiaries to current or former officers, directors and employees thereof, their respective estates, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of the Issuer or any direct or indirect parent company of the Issuer to the extent described in clause (4) of the second paragraph under the caption Limitation on Restricted Payments ;

(22) Physician Support Obligations incurred by the Issuer or any Restricted Subsidiary; and

(23) Indebtedness of the Issuer or any of its Restricted Subsidiaries undertaken in connection with cash management and related activities with respect to any Subsidiary or joint venture operating one or more healthcare facilities, including, without limitation, hospitals, ambulatory surgery centers, outpatient diagnostic centers or imaging centers, in each case, in the ordinary course of business.

For purposes of determining compliance with this covenant:

(1) in the event that an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of more than one of the categories of permitted Indebtedness, Disqualified Stock or Preferred Stock described in clauses (1) through (23) above or is entitled to be incurred pursuant to the first paragraph of this covenant, the Issuer, in its sole discretion, will classify or reclassify such item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) and will only be required to include the amount and type of such Indebtedness, Disqualified Stock or Preferred Stock in one of the above clauses; *provided* that all Indebtedness outstanding under the Credit Facilities on the Issue Date will be treated as incurred on the Issue Date under clause (1) of the preceding paragraph; and

(2) at the time of incurrence, the Issuer will be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described in the first and second paragraphs above.

Accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness, Disqualified Stock or Preferred Stock will not be deemed to be an incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this covenant.

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; *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 the principal amount of such Indebtedness being refinanced.

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 respective Indebtedness is denominated that is in effect on the date of such refinancing.

The Indenture provides that the Issuer will not, and will not permit any Guarantor to, directly or indirectly, incur any Indebtedness (including Acquired Indebtedness) that is subordinated or junior in right of

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payment to any Indebtedness of the Issuer or such Guarantor, as the case may be, unless such Indebtedness is expressly subordinated in right of payment to the Notes or such Guarantor's Guarantee to the extent and in the same manner as such Indebtedness is subordinated to other Indebtedness of the Issuer or such Guarantor, as the case may be.

The Indenture does not treat (1) unsecured Indebtedness as subordinated or junior to Secured Indebtedness merely because it is unsecured or (2) Senior Indebtedness as subordinated or junior to any other Senior Indebtedness merely because it has a junior priority with respect to the same collateral.

***Limitation on Prepayment or Modification of Existing Notes***

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly purchase, redeem, defease or otherwise acquire or retire for value any of the Existing Notes prior to the final maturity date thereof (as in effect on the Issue Date); *provided* that the Issuer may:

(1) purchase, redeem, defease or otherwise acquire or retire for value any of the Existing Notes which have a final maturity date (as in effect on the Issue Date) on or prior to December 31, 2011; and

(2) purchase, redeem, defease or otherwise acquire or retire for value any other Existing Notes which have a final maturity date (as in effect on the Issue Date) on or prior to November 15, 2016; *provided* that, in the case of any such prepayment funded with the proceeds of the issuance of Secured Indebtedness, at the time of incurrence and after giving *pro forma* effect thereto and to the application of the proceeds thereof, (x) the Consolidated Secured Debt Ratio would be no greater than 5.25 to 1.0 and (y) the Consolidated Leverage Ratio would be no greater than 7.0 to 1.0.

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, amend the Existing Notes Indenture, or any supplemental indenture in respect thereof, in any way to advance the final maturity date or shorten the Weighted Average Life to Maturity of any series of the Existing Notes such that any Existing Notes with a maturity date following the maturity of the Notes would have a maturity date on or prior to the date one year following the maturity date of the 2016 Cash Pay Notes or which would prohibit the making of the Guarantees or the creation of Liens in favor of the Notes and the Guarantees on the Collateral.

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, designate any additional subsidiaries as Restricted Subsidiaries (as defined in the Existing Notes Indenture) for purposes of the Existing Notes Indenture.

***Liens***

The Issuer will not, and will not permit any Guarantor to, directly or indirectly, create, incur, assume or suffer to exist any Lien (except Permitted Liens) that secures obligations under any Indebtedness or any related Guarantee, on any asset or property of the Issuer or any Guarantor, or any income or profits therefrom, or assign or convey any right to receive income therefrom, unless:

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

(2) in all other cases, the Notes or the Guarantees are equally and ratably secured or are secured by a Lien on such property, assets or proceeds that is senior in priority to such Liens;

except that the foregoing shall not apply to (a) Liens securing the Notes and the related Guarantees, (b) Liens securing Indebtedness permitted to be incurred under Credit Facilities, including any letter of credit relating thereto, that was



permitted by the terms of the Indenture to be incurred pursuant to clause (1) of the second paragraph under Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock ; *provided* that, with respect to Liens securing Obligations permitted under this subclause (b), the Notes and the related Guarantees are secured by Liens on the assets subject to such Liens (except any European Collateral) to the extent, with the priority and subject to intercreditor arrangements, in each case no less favorable to the holders of the Notes than those described under Security above and (c) Liens which are senior in priority to the Liens securing the

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Notes and related Guarantees and are incurred to secure Obligations in respect of any Indebtedness permitted to be incurred pursuant to the covenant described above under Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock ; *provided* that, with respect to Liens securing Obligations permitted under this subclause (c), (i) at the time of incurrence and after giving *pro forma* effect thereto, the ratio of (1) the aggregate amount of Indebtedness subject to a Lien incurred pursuant to subclause (b) above, this subclause (c) and clause (6) of the definition of Permitted Liens (other than Liens securing Indebtedness incurred pursuant to clauses (4) and (18) of the covenant described above under Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock ) to (2) the Issuer's EBITDA for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such event for which such calculation is being made shall occur, in each case with such *pro forma* adjustments to Indebtedness and EBITDA as are appropriate and consistent with the *pro forma* adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio would be no greater than 4.25 to 1.0 and (ii) the Notes and the Guarantees are secured by Liens with the priority and subj