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THIS ANNOUNCEMENT IS FOR INFORMATION PURPOSES ONLY, AND DOES NOT CONSTITUTE OR FORM PART OF AND SHOULD NOT BE CONSTRUED AS, AN INVITATION OR SOLICITATION OF AN OFFER TO ACQUIRE, PURCHASE OR SUBSCRIBE FOR SECURITIES OR AN INDUCEMENT TO ENTER INTO INVESTMENT ACTIVITY, OR AN INVITATION TO ENTER INTO AN AGREEMENT TO DO ANY SUCH THINGS, NOR IS IT CALCULATED TO INVITE ANY OFFER TO ACQUIRE, PURCHASE OR SUBSCRIBE FOR ANY SECURITIES.

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## **BAOXIN AUTO FINANCE I LIMITED AND CHINA GRAND AUTOMOTIVE SERVICES GROUP CO., LTD. ANNOUNCE PRICING OF THE NEW NOTES**

July 22, 2021

Reference is made to the announcements of Baoxin Auto Finance I Limited (the "**Existing Securities Issuer**") and China Grand Automotive Services Group Co., Ltd. (廣匯汽車服務集團股份有限公司) (the "**Company**") dated July 9, 2021, July 16, 2021 and July 20, 2021 (the "**Announcements**") in respect of, among others, the Tender Offer. Capitalised terms used but not otherwise defined in this announcement shall have the meanings given to them in the Announcements.

### **PRICING OF THE NEW NOTES**

The Company is pleased to announce that the New Notes Issuer will issue US\$231,686,000 in principal amount of the New Notes (ISIN: XS2363933487/Common Code: 236393348).

The New Notes will bear interest at the rate of 9.125% per annum, payable semi-annually in arrear on January 30 and July 30 of each year, commencing on January 30, 2022. The New Notes will mature on January 30, 2024, unless otherwise redeemed pursuant to the terms thereof earlier.

For convenience, see "*Appendix – Description of the New Notes*" for a detailed description of the New Notes (referred to as the Notes therein). Capitalized terms referred to and not defined therein shall have the meanings given to them in the offering memorandum in respect of the New Notes dated July 21, 2021 (the "**Offering Memorandum**"). For detailed information on the New Notes, potential investors in securities should refer to the Offering Memorandum.

### **TENDER OFFER IN RESPECT OF THE EXISTING SECURITIES**

Each Eligible Holder which has been informed of a New Issue Allocation shall be entitled to tender such principal amount of Existing Securities not more than 60% of the principal amount of New Notes (with such principal amount of New Notes rounded down to the nearest US\$1,000) allocated to such Eligible Holder pursuant to the Concurrent New Money Issuance. In order for any Eligible Tender Instruction to be effective, a Eligible Holder will need to have a minimum of US\$200,000 in aggregate principal amount of Existing Securities accepted for purchase by the Company pursuant to the Tender Offer; and therefore a minimum of US\$333,000 in aggregate principal amount of New Notes as its New Issue Allocation.

For detailed information on the Tender Offer, potential investors in securities should refer to the Tender Offer Memorandum in respect of the Tender Offer dated July 9, 2021 (the "**Tender Offer Memorandum**").

#### **EXPECTED TENDER OFFER TIMETABLE**

The Company has revised the Settlement Date from on or about August 2, 2021 to on or about July 30, 2021 as set out in the announcement dated July 20, 2021.

For convenience, the revised expected times and dates for the following events in connection with the Tender Offer are set forth below again.

| <b>Date</b>                          | <b>Event</b>                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| July 26, 2021 at 4:00 pm London time | <b><i>Expiration Deadline</i></b><br><br>Deadline for receipt by the Information and Tender Agent of all Eligible Tender Instructions in order for Eligible Holders to be able to participate in the Tender Offer.                                                                                                                                                  |
| No later than July 28, 2021          | <b><i>Announcement of results of the Tender Offer</i></b><br><br>Announcement of the results of the Tender Offer will be delivered to (i) the Clearing Systems for communication to Direct Participants, (ii) the SGX-ST and (iii) the Principal Paying Agent and the Common Depository of the Existing Securities; and made available on the Tender Offer Website. |
| On or about July 30, 2021            | <b><i>Settlement Date</i></b><br><br>Issuance and settlement of the New Notes; Settlement of the Tender Offer; the Company will pay the Tender Consideration.                                                                                                                                                                                                       |
| On or about August 2, 2021           | <b><i>Listing of New Notes on the SGX-ST</i></b>                                                                                                                                                                                                                                                                                                                    |

All references to times are to London time, unless stated otherwise.

The Company reserves the right to extend the Expiration Deadline in the Company's sole discretion. In such a case, the date on which the subsequent announcement relating to the Tender Offer will be delivered and the Tender Settlement Date will be adjusted accordingly. Eligible Holders should inform themselves of any earlier deadlines that may be imposed by the Clearing Systems and/or any intermediaries, which may affect the timing of the submission of an Instruction.

Except as set out herein, all other terms and conditions of the Tender Offer remain unchanged as stated in the Tender Offer Memorandum.

#### **FOR FURTHER INFORMATION**

Questions regarding the terms of the Tender Offer may be directed to China International Capital Corporation Hong Kong Securities Limited, The Hongkong and Shanghai Banking Corporation Limited, CCB International Capital Limited and Haitong International Securities Company Limited, as the dealer managers for the Tender Offer:

|                                                                                                      |                                                                                             |                                                                                       |                                                                                   |
|------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| China International Capital Corporation Hong Kong Securities Limited                                 | The Hongkong and Shanghai Banking Corporation Limited                                       | CCB International Capital Limited                                                     | Haitong International Securities Company Limited                                  |
| 29 <sup>th</sup> Floor, One International Finance Centre 1 Harbour View Street<br>Central, Hong Kong | Level 17, HSBC Main Building<br>1 Queen's Road<br>Central<br>Hong Kong                      | 12/F, CCB Tower,<br>3 Connaught Road<br><br>Central, Central,<br>Hong Kong            | 28/F, One IFC, 1 Harbour View Street,<br><br>Central, Hong Kong                   |
| Telephone: +852 2872 2000                                                                            | Telephone: +852 3941 0223                                                                   | Email: <a href="mailto:PROJECT_UPBRI NG@ccbintl.com">PROJECT_UPBRI NG@ccbintl.com</a> | Email: <a href="mailto:project.upbring@htisec.com">project.upbring@htisec.com</a> |
| Email: <a href="mailto:IB_Project_Upbring@cicc.com.cn">IB_Project_Upbring@cicc.com.cn</a>            | Email: <a href="mailto:liability.management@hsbcib.com">liability.management@hsbcib.com</a> |                                                                                       |                                                                                   |

Questions regarding the procedures for participating in the Tender Offer may be directed to the Information and Tender Agent at:

Morrow Sodali Ltd.

In London  
103 Wigmore Street  
London W1U 1QS  
Telephone: +44 208 089 3287

In Hong Kong  
Unit 13-101, 13/F  
40-44 Bonham Strand  
Telephone: +852 2319 4130

Email: [ChinaGrandAuto@investor.morrowsodali.com](mailto:ChinaGrandAuto@investor.morrowsodali.com)

The Tender Offer Memorandum has been distributed in electronic format to Eligible Holders via the Tender Offer Website: <https://bonds.morrowsodali.com/ChinaGrandAuto>. Any requests for additional copies of the Tender Offer Memorandum should be directed to Morrow Sodali Ltd. at the above points of contact.

## GENERAL

No offer or invitation to acquire or exchange any securities is being made pursuant to this announcement. This announcement, the Preliminary Offering Memorandum, the Offering Memorandum and the Tender Offer Memorandum contain important information, which must be read carefully before any decision is made with respect to the Tender Offer and the New Notes. If any Holder is in any doubt as to the action it should take, it is recommended to seek its own legal, tax and financial advice, including as to any tax consequences, from its stock broker, bank manager, solicitor, accountant or other independent financial adviser.

This announcement, the Preliminary Offering Memorandum, the Offering Memorandum and the Tender Offer Memorandum do not constitute an offer to sell or buy or the solicitation of an offer to sell or buy the Existing Securities and/or New Notes, as applicable, in any circumstances in which such offer or solicitation is unlawful.

**PLEASE NOTE: The Tender Offer is available only to investors who are non-U.S. persons outside the United States. U.S. PERSONS AND PERSONS LOCATED IN THE UNITED STATES ARE NOT PERMITTED TO TENDER EXISTING SECURITIES IN THE TENDER OFFER.**

## **APPENDIX – DESCRIPTION OF THE NEW NOTES**

## DESCRIPTION OF THE NOTES

For purposes of this "Description of the Notes," the term "**Issuer**" refers only to China Grand Automotive Services Limited (廣匯汽車服務有限責任公司), and any successor obligor on the Notes, and the term "**Parent Guarantor**" refers only to China Grand Automotive Services Group Co., Ltd. (廣匯汽車服務集團股份公司) and not to any of its subsidiaries. The Parent Guarantor's guarantee of the Notes is referred to as the "**Parent Guarantee**".

The Notes are to be issued under an indenture (the "**Indenture**"), to be dated as of the Original Issue Date, among the Issuer, the Parent Guarantor and The Bank of New York Mellon, London Branch, a banking corporation organized and existing under the laws of the State of New York with limited liability and operating through its branch in London at One Canada Square, London E14 5AL, United Kingdom, as trustee (the "**Trustee**").

The following is a summary of certain provisions of the Indenture, the Notes, the Parent Guarantee and, if any, the Subsidiary Guarantees. This summary does not purport to be complete and is qualified in its entirety by reference to all of the provisions of the Indenture, the Notes, the Parent Guarantee and, if any, the Subsidiary Guarantees. It does not restate those agreements in their entirety. Whenever particular sections or defined terms of the Indenture not otherwise defined herein are referred to, such sections or defined terms are incorporated herein by reference. Copies of the Indenture will be available for inspection following prior written request and satisfactory proof of holding on or after the Original Issue Date during office hours (between 9:00am and 3:00pm) at the corporate trust office of the Trustee at One Canada Square, London E14 5AL, United Kingdom.

## BRIEF DESCRIPTION OF THE NOTES

### Form, Denomination, Status and Ranking

The Notes are:

- general obligations of the Issuer;
- senior in right of payment to any existing and future obligations of the Issuer expressly subordinated in right of payment to the Notes;
- at least *pari passu* in right of payment with all other unsecured and unsubordinated Indebtedness of the Issuer (subject to any priority rights of such unsecured and unsubordinated Indebtedness pursuant to applicable law);
- guaranteed by the Parent Guarantor and, if any, the Subsidiary Guarantors on a senior basis, subject to the limitations described below under "— The Parent Guarantee" and "The Subsidiary Guarantees" and in "Risk Factors — Risks Relating to the Notes, the Parent Guarantee and the Subsidiary Guarantees (if any);"
- effectively subordinated to all existing and future secured obligations of the Issuer to the extent of the value of the collateral serving as security therefor;
- effectively subordinated to all existing and future obligations of the Non-Guarantor Subsidiaries (defined below); and
- effectively subordinated to all existing and future secured obligations of the Parent Guarantor and, if any, the Subsidiary Guarantors, to the extent of the value of the collateral serving as security therefor.

The Notes will mature on the Maturity Date, unless earlier redeemed pursuant to the terms thereof and the Indenture.

The Notes will bear interest at 9.125% per annum from the Original Issue Date or from the most recent interest payment date to which interest has been paid or duly provided for, payable semiannually in arrear on January 30 and July 30 of each year (each an "**Interest Payment Date**"), commencing on January 30, 2022. Interest on the Notes will be paid to Holders of record at the close of business on January 15 or July 15 (each, a "**Record Date**"), notwithstanding any transfer, exchange or cancellation thereof after a Record Date and prior to the immediately following Interest Payment Date. So long as the Notes are held in global form, each payment in respect of the Global Note will be made to the person shown as the holder of the Notes in the Note Register at the close of

business (of the relevant clearing system) on the Clearing System Business Day before the due date for such payments, where "**Clearing System Business Day**" means a weekday (Monday to Friday, inclusive) except December 25 and January 1. Interest on the Notes will be calculated on the basis of a 360-day year comprised of twelve 30-day months.

Except as described under "Optional Redemption", "Redemption for Taxation Reasons" and otherwise provided in the Indenture, the Notes may not be redeemed prior to maturity (unless they have been repurchased by the Issuer or the Parent Guarantor).

In any case in which the date of the payment of principal of, or any premium or interest on the Notes is not a Business Day in the relevant place of payment or in the place of business of the Principal Paying Agent, then payment of such principal, premium or interest need not be made on such date but may be made on the next succeeding Business Day. Any payment made on such Business Day shall have the same force and effect as if made on the date on which such payment is due and no interest on the Notes shall accrue for the period after such date.

The Indenture allows additional Notes to be issued from time to time (the "**Additional Notes**"), subject to certain limitations described under "— Further Issues." Unless the context requires otherwise, references to the "Notes" for all purposes of the Indenture and this "Description of the Notes" include any Additional Notes that are actually issued.

The Notes will be issued only in fully registered form, without coupons, in denominations of US\$200,000 and integral multiples of US\$1,000 in excess thereof. No service charge will be made for any registration of transfer or exchange of the Notes, but the Issuer may require payment of a sum sufficient to cover any transfer tax or other similar governmental charge payable in connection therewith.

All payments on the Notes will be made in U.S. dollars by the Issuer at the office or agency of the Issuer maintained for that purpose (which initially will be an office of the Principal Paying Agent, currently located at One Canada Square, London E14 5AL, United Kingdom), and the Notes may be presented for registration of transfer or exchange at such office or agency; provided that, if the Notes are in certificated form and the Issuer is acting as its own paying agent, payment of interest may be made by wire transfer. Interest payable on the Notes held through Euroclear or Clearstream will be available to Euroclear or Clearstream participants on the Business Day following payment thereof.

## **THE PARENT GUARANTEE**

The Parent Guarantee is:

- a general obligation of the Parent Guarantor;
- senior in right of payment to any existing and future obligations of the Parent Guarantor expressly subordinated in right of payment to the Parent Guarantee;
- at least *pari passu* in right of payment with all other unsecured and unsubordinated Indebtedness of the Parent Guarantor (subject to any priority rights of such unsecured and unsubordinated Indebtedness pursuant to applicable law); and
- effectively subordinated to all existing and future secured obligations of the Parent Guarantor, to the extent of the value of the collateral serving as security therefor.

Under the Indenture, the Parent Guarantor will guarantee the due and punctual payment of the principal of, premium, if any, and interest on, and all other amounts payable under, the Notes. The Parent Guarantor will (1) agree that its obligations under the Parent Guarantee will be enforceable irrespective of any invalidity, irregularity or unenforceability of the Notes or the Indenture and (2) waive its right to require the Trustee to pursue or exhaust its legal or equitable remedies against the Issuer prior to exercising its rights under the Parent Guarantee. Moreover, if at any time any amount paid under a Note or the Indenture is rescinded or must otherwise be restored, the rights of the Holders under the Parent Guarantee will be reinstated with respect to such payments as though such payment had not been made. All payments under the Parent Guarantee are required to be made in U.S. dollars. The Parent Guarantor understands that under PRC law:

- (i) the Parent Guarantee will be a legal, valid and binding obligation of the Parent Guarantor upon execution; and

- (ii) the Parent Guarantee will cover all sums due under the Notes (including any principal, interest and related financial obligations).

The Parent Guarantee will be governed by the laws of the State of New York. The Parent Guarantor intends to execute the Parent Guarantee on the Original Issue Date.

### **Release of the Parent Guarantee**

The Parent Guarantee may be released in certain circumstances, including:

- upon repayment in full of the Notes; or
- upon a defeasance as described under "— Defeasance — Defeasance and Discharge."

### **THE SUBSIDIARY GUARANTEES**

None of the Parent Guarantor's existing Restricted Subsidiaries will provide any Subsidiary Guarantee on the Original Issue Date, and no future Restricted Subsidiaries will at any time provide any Subsidiary Guarantee, subject to the limitation described under "— Certain Covenants — Limitation on Issuances of Guarantees by Restricted Subsidiaries." All existing and future Restricted Subsidiaries (other than the Issuer) that do not provide a Subsidiary Guarantee are collectively referred to as "**Non-Guarantor Subsidiaries**".

If provided, the Subsidiary Guarantee of each Subsidiary Guarantor will be:

- a general obligation of such Subsidiary Guarantor;
- senior in right of payment to all future obligations of such Subsidiary Guarantor expressly subordinated in right of payment to such Subsidiary Guarantee;
- at least *pari passu* in right of payment with all other unsecured and unsubordinated Indebtedness of such Subsidiary Guarantor (subject to any priority rights of such unsecured and unsubordinated Indebtedness pursuant to applicable law); and
- effectively subordinated to secured obligations of such Subsidiary Guarantor, to the extent of the value of the assets serving as security therefor.

If at any time any amount paid under a Note, the Parent Guarantee or the Indenture is rescinded or must otherwise be restored, the rights of the Holders under the Subsidiary Guarantees, if any, will be reinstated with respect to such payments as though such payment had not been made. All payments under the Subsidiary Guarantees, if any, are required to be made in U.S. dollars.

Although the Indenture contains limitations on the amount of additional Indebtedness that Non-Guarantor Subsidiaries may incur, the amount of such additional Indebtedness could be substantial. In the event of a bankruptcy, liquidation or reorganization of any Non-Guarantor Subsidiary, such Non-Guarantor Subsidiary will pay the holders of its debt and its trade creditors before it will be able to distribute any of its assets to the Parent Guarantor. See "Risk Factors — Risks Relating to the Notes, the Parent Guarantee and the Subsidiary Guarantees (if any) — The obligations of the Issuer under the Notes and the Parent Guarantor and, if any, the Subsidiary Guarantors under the Parent Guarantee and, if any, the Subsidiary Guarantees, respectively, are structurally subordinated to the liabilities, contingent liabilities and obligations of their respective subsidiaries and the Non-Guarantor Subsidiaries."

Under the Indenture, and any supplemental indenture to the Indenture, as applicable, each Subsidiary Guarantee will be limited to an amount not to exceed the maximum amount that the relevant Subsidiary Guarantor can Guarantee without rendering such Subsidiary Guarantee voidable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally. If any Subsidiary Guarantee were to be rendered void or voidable, it could be subordinated by a court to all other indebtedness (including Guarantees and other contingent liabilities) of the relevant Subsidiary Guarantor and, depending on the amount of such indebtedness, such Subsidiary Guarantor's liability on its Subsidiary Guarantee could be reduced to zero.

The obligations of a Subsidiary Guarantor under its Subsidiary Guarantee may be limited, or possibly invalid, under applicable laws. See "Risk Factors — Risks Relating to the Notes, the Parent Guarantee and the Subsidiary

Guarantees (if any) — The Subsidiary Guarantees, if any, may be challenged under insolvency or fraudulent transfer laws, which could impair the enforceability of the Subsidiary Guarantees" of this offering memorandum.

### Release of the Subsidiary Guarantees

The Subsidiary Guarantee of a Subsidiary Guarantor, if any, may be released in certain circumstances, including:

- upon repayment in full of the Notes;
- upon the designation by the Parent Guarantor of such Subsidiary Guarantor as an Unrestricted Subsidiary in compliance with the terms of the Indenture;
- upon the sale, disposition or merger of such Subsidiary Guarantor in compliance with the terms of the Indenture (including the covenants under the captions "— Certain Covenants — Limitation on Sales and Issuances of Capital Stock in Restricted Subsidiaries," "— Certain Covenants — Limitation on Asset Sales" and "— Consolidation, Merger and Sale of Assets") resulting in such Subsidiary Guarantor no longer being a Restricted Subsidiary, so long as (1) such Subsidiary Guarantor is simultaneously released from its obligations in respect of any of the Parent Guarantor's other Indebtedness or any Indebtedness of any other Restricted Subsidiary and (2) the proceeds from such sale, disposition or merger are used for the purposes permitted or required by the Indenture;
- in the case of such Subsidiary Guarantor that becomes a Non-Guarantor Subsidiary, in compliance with the terms of the Indenture; or
- as described under "— Amendments and Waiver."

No release of any Subsidiary Guarantee shall be effective against the Trustee or the Holders until the Parent Guarantor has delivered to the Trustee an Officer's Certificate stating that all requirements relating to such release have been complied with and that such release is authorized and permitted by the terms of the Indenture.

### FURTHER ISSUES

Subject to the covenants described below and in accordance with the terms of the Indenture, the Issuer may, from time to time, without notice to or the consent of the Holders, create and issue Additional Notes having the same terms and conditions as the Notes (including the benefit of the Parent Guarantee and, if any, the Subsidiary Guarantees) in all respects (or in all respects except for the issue date, issue price, the first payment of interest, the timing for making and completing the SAFE registration and, to the extent necessary, certain temporary securities law transfer restrictions) (a "**Further Issue**") so that such Additional Notes may be consolidated and form a single class with the previously outstanding Notes and vote together as one class on all matters with respect to the Notes; *provided* that the issuance of any such Additional Notes shall then be permitted under the "— Certain Covenants — Limitation on Indebtedness and Preferred Stock" covenant described below and the other provisions of the Indenture; and *provided* further that the Parent Guarantor shall comply with the undertakings described under "Repurchase of Notes upon a SAFE Non-compliance Event" with respect to the Further Issue and the "Original Issue Date" as used therein (including in the definition of SAFE Registration Deadline) shall be deemed to mean the issue date of the Further Issue (such date, with respect to each tranche of Additional Notes, the "**Further Issue Original Issue Date**") or, at the election of the Issuer (the "**Concurrent SAFE Registration Election**"), the Original Issue Date; and *provided* further that such Additional Notes may not have the same ISIN, Common Code or other identifying number as the outstanding Notes (i) unless and until the SAFE Completion Event (as defined below under "— Repurchase of Notes upon a SAFE Non-compliance Event") has occurred with respect to both the outstanding Notes and such Additional Notes, or (ii) the Issuer has made the Concurrent SAFE Registration Election and will make the SAFE Filing (as defined below) with respect to both the outstanding Notes and such Additional Notes together. In connection with any such issue of Additional Notes, the Issuer shall deliver an Officer's Certificate to the Trustee directing the Trustee to authenticate and deliver the Additional Notes in an aggregate principal amount specified therein and the Trustee, in accordance with such Officer's Certificate, shall authenticate and deliver such Additional Notes.

In addition, the issuance of any Additional Notes by the Issuer will be subject to the following conditions:

- (i) the Additional Notes shall be guaranteed under the Indenture, the Parent Guarantee and, if any, the Subsidiary Guarantees to the same extent and on the same basis as the Notes outstanding on the date the Additional Notes are issued; and

- (ii) the Issuer shall have delivered to the Trustee an Officer's Certificate, in form and substance satisfactory to the Trustee, confirming that the issuance of the Additional Notes complies with the Indenture and is permitted by the Indenture.

## OPTIONAL REDEMPTION

At any time prior to January 30, 2024, the Issuer may at its option redeem the Notes, in whole but not in part, at a redemption price equal to 100% of the principal amount of the Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest on the Notes redeemed, if any, to (but excluding) the redemption date. The Issuer will give not less than 30 days' nor more than 60 days' notice of any redemption. Neither the Trustee nor any of the Agents shall be responsible for verifying or calculating the Applicable Premium.

At any time and from time to time prior to January 30, 2024, the Issuer may redeem up to 35% of the aggregate principal amount of the Notes with the Net Cash Proceeds of one or more sales of the Common Stock of the Parent Guarantor in an Equity Offering at a redemption price of 109.125% of the principal amount of the Notes redeemed, plus accrued and unpaid interest, if any, to (but excluding) the redemption date; *provided* that at least 65% of the aggregate principal amount of the Notes originally issued (including any Additional Notes) remains outstanding after each such redemption and any such redemption takes place within 60 days after the closing of the related Equity Offering.

The Issuer will give not less than 30 days' nor more than 60 days' notice of any redemption to the Holders and the Trustee. If less than all of the Notes are to be redeemed at any time, the Notes will be selected for redemption as follows:

- (i) if the Notes are listed on any recognized securities exchange or are held through a clearing system, in compliance with the requirements of the principal recognized securities exchange on which the Notes are listed (if any) or if the Notes are being held through the clearing systems, in compliance with the requirements of such clearing systems; or
- (ii) if the Notes are not listed on any recognized securities exchange or held through any clearing system, on a pro rata basis by lot or such other method that the Trustee deems to be fair and appropriate in its sole and absolute discretion, or as otherwise required by law.

No Note of US\$200,000 in 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 such Note will state the portion of the principal amount to be redeemed. A new Note in principal amount equal to the unredeemed portion will be issued upon cancellation of the original Note. On and after the redemption date, interest will cease to accrue on the Notes or portions of them called for redemption.

Any redemption described under this "— Optional Redemption" caption may, at the Issuer's discretion, be subject to one or more conditions precedent, in which case the related notice will describe each such condition, and if applicable, shall state that, in the Issuer's discretion, the date of redemption may be delayed until such time as any or all such conditions shall be satisfied or waived (provided that in no event shall such date of redemption be delayed to a date later than 60 days after the date on which such notice was mailed), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied or waived by the date of redemption, or by the date of redemption as so delayed.

## REPURCHASE OF NOTES UPON A CHANGE OF CONTROL TRIGGERING EVENT

Not later than 30 days following a Change of Control Triggering Event, the Issuer or the Parent Guarantor will make an Offer to Purchase all outstanding Notes (a "**Change of Control Offer**") at a purchase price equal to 101% of the principal amount thereof plus accrued and unpaid interest, if any, to (but not including) the Offer to Purchase Payment Date (as defined in clause (2) of the definition of "**Offer to Purchase**").

Each of the Issuer and the Parent Guarantor has agreed in the Indenture that it will, upon the occurrence of a Change of Control Triggering Event, timely repay all Indebtedness or obtain consents as necessary under, or terminate, agreements or instruments that would otherwise prohibit a Change of Control Offer required to be made pursuant to the Indenture. Notwithstanding this agreement of the Issuer and the Parent Guarantor, it is important to note that if the Issuer or the Parent Guarantor, as the case may be, is unable to repay (or cause to be repaid) all of the Indebtedness, if any, that would prohibit the repurchase of the Notes or is unable to obtain the requisite consents of the holders of such Indebtedness, or terminate any agreements or instruments that would otherwise prohibit a Change of Control Offer, it would continue to be prohibited from purchasing the Notes. In that case,

the Issuer's or the Parent Guarantor's failure to purchase tendered Notes would constitute an Event of Default under the Indenture.

Certain of the events constituting a Change of Control Triggering Event under the Notes may also constitute an event of default under certain debt instruments of the Parent Guarantor and its Subsidiaries. Future debt of the Issuer or the Parent Guarantor and its Subsidiaries may also (1) prohibit the Issuer or the Parent Guarantor from purchasing the Notes in the event of a Change of Control Triggering Event, (2) provide that a Change of Control Triggering Event is a default; or (3) require repurchase of such debt upon a Change of Control Triggering Event. Moreover, the exercise by the Holders of their right to require the Issuer or the Parent Guarantor to purchase the Notes could cause a default under other debt instruments, even if the Change of Control Triggering Event itself does not, due to the financial effect of the purchase on the Issuer or the Parent Guarantor. The Issuer's or the Parent Guarantor's ability to pay cash to the Holders following the occurrence of a Change of Control Triggering Event may be limited by the Issuer's and the Parent Guarantor's then-existing financial resources. There can be no assurance that sufficient funds will be available when necessary to make the required purchase of the Notes. See "Risk Factors — Risks Relating to the Notes, the Parent Guarantee and the Subsidiary Guarantees (if any) — We may not be able to repurchase the Notes upon a Change of Control Triggering Event."

The definition of Change of Control includes a phrase relating to the sale of "all or substantially all" the assets of the Parent Guarantor. 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. As a result, there may be a degree of uncertainty in ascertaining whether a sale or transfer of "all or substantially all" the assets of the Parent Guarantor has occurred.

The Trustee shall not be required to take any steps to ascertain whether a Change of Control Triggering Event or any event which could lead to the occurrence of a Change of Control Triggering Event has occurred and shall not be liable to any person for any failure to do so.

Notwithstanding the above, the Issuer or the Parent Guarantor will not be required to make a Change of Control Offer following a Change of Control Triggering Event if a third party makes the Change of Control Offer in the same manner within the same time frame and otherwise in compliance with the requirements set forth in the Indenture applicable to a Change of Control Offer made by the Issuer or the Parent Guarantor and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer.

Except as described above with respect to a Change of Control Triggering Event, the Indenture does not contain provisions that permit the Holders to require the Issuer or the Parent Guarantor to purchase or redeem the Notes in the event of a takeover, recapitalization or similar transaction.

#### **REPURCHASE OF NOTES UPON A SAFE NON-COMPLIANCE EVENT**

The Issuer shall file or cause to be filed with the local branch of SAFE the Notes within the prescribed time (the "**SAFE Filing**"), pursuant to the Administrative Measures for Foreign Debt Registration and its operating guidelines (《外債登記管理辦法》及《外債登記管理操作指引》) issued by the SAFE and the Circular of the People's Bank of China on Issues in relation to the Macro-prudence Management of Overall Cross-border Financing (《中國人民銀行關於全口徑跨境融資宏觀審慎管理有關事宜的通知》). The Issuer shall:

- (i) complete the registration and obtain a registration certificate from SAFE (or any other document evidencing the completion of registration issued by SAFE) on or prior to the SAFE Registration Deadline; and
- (ii) before the SAFE Registration Deadline and promptly after receipt of the registration certificate from SAFE (or any other document evidencing the completion of registration issued by SAFE), provide the Trustee with an Officer's Certificate substantially in a form set forth in the Indenture attaching a copy of the relevant evidence of registration from the local branch of SAFE and certifying that such copy is true and correct (such registration and delivery of an Officer's Certificate attaching the evidence from the local branch of SAFE are referred to collectively as the "**SAFE Completion Event**").

If the SAFE Completion Event shall not have occurred on or prior to the SAFE Registration Deadline (such non-occurrence, a "**SAFE Non-compliance Event**"), the Issuer or the Parent Guarantor shall immediately make an Offer to Purchase all outstanding Notes (a "**SAFE Non-compliance Offer**") at a purchase price equal to 100% of the principal amount thereof plus accrued and unpaid interest, if any, to (but not including) the Offer to Purchase Payment Date (as defined in clause (2) of the definition of "**Offer to Purchase**").

Prior to the occurrence of the SAFE Completion Event, the Issuer will not, and the Parent Guarantor will not permit any Restricted Subsidiary to, use the net proceeds from the sale of the Notes issued on the Original Issue Date, in any amount, for any purpose other than investments described in clauses (1), (2), (3) or (7) of the definition of Temporary Cash Investments.

The Trustee shall have no obligation to monitor or ensure the registration of the Notes with the local branch of SAFE on or before the SAFE Registration Deadline or to verify the accuracy, validity and/or genuineness of any documents in relation thereto or to give notice to the Bondholders confirming the completion of the SAFE Filing, and shall not be liable to Holders or any other person for not doing so.

#### **NO MANDATORY REDEMPTION OR SINKING FUND**

There will be no mandatory redemption or sinking fund payments for the Notes.

#### **ADDITIONAL AMOUNTS**

All payments of principal of, premium (if any), and interest on the Notes or under the Parent Guarantee or any Subsidiary Guarantee will be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or within any jurisdiction in which the Issuer, the Parent Guarantor, a Surviving Person (as defined under the caption "—Consolidation, Merger and Sale of Assets") or any Subsidiary Guarantor is organized or resident for tax purposes or any political subdivision or taxing authority thereof or therein (each, as applicable, a "**Relevant Taxing Jurisdiction**") or any jurisdiction through which payment is made by or on behalf of the Issuer, the Parent Guarantor, a Surviving Person or any Subsidiary Guarantor, as the case may be, or any political subdivision or taxing authority thereof or therein (together with the Relevant Taxing Jurisdictions, the "**Relevant Jurisdictions**"), unless such withholding or deduction is required by law or by regulation or governmental policy having the force of law. In the event that any such withholding or deduction is so required, the Issuer, the Parent Guarantor, a Surviving Person or any Subsidiary Guarantor, as the case may be, will pay such additional amounts ("**Additional Amounts**") as will result in receipt by the Holder of each Note, Parent Guarantee or any Subsidiary Guarantee, as the case may be, of such amounts as would have been received by such Holder had no such withholding or deduction been required, except that no Additional Amounts shall be payable:

- (1) for or on account of:
  - (a) any tax, duty, assessment or other governmental charge that would not have been imposed but for:
    - (i) the existence of any present or former connection between the Holder or beneficial owner of such Note and the Relevant Jurisdiction other than merely holding such Note or the receipt of payments thereunder or under the Parent Guarantee or any Subsidiary Guarantee, including, without limitation, such Holder or beneficial owner being or having been a national, domiciliary or resident of such Relevant Jurisdiction or treated as a resident thereof or being or having been physically present or engaged in a trade or business therein or having or having had a permanent establishment therein;
    - (ii) the presentation of such Note (in cases in which presentation is required) more than 30 days after the later of the date on which the payment of the principal of, premium, if any, and interest on, such Note became due and payable pursuant to the terms thereof or was made or duly provided for, except to the extent that the Holder thereof would have been entitled to such Additional Amounts if it had presented such Note for payment on any date within such 30-day period; or
    - (iii) the failure of the Holder or beneficial owner to comply with a timely request of the Issuer, the Parent Guarantor, a Surviving Person or any Subsidiary Guarantor, addressed to the Holder, to provide information concerning such Holder's or beneficial owner's nationality, residence, identity or connection with any Relevant Jurisdiction, if and to the extent that due and timely compliance with such request would have reduced or eliminated any withholding or deduction as to which Additional Amounts would have otherwise been payable to such Holder;
  - (b) any estate, inheritance, gift, sale, transfer, personal property or similar tax, assessment or other governmental charge;

- (c) any tax, duty, assessment or other governmental charge to the extent such tax, duty, assessment or other governmental charge results from the presentation of the Note (where presentation is required) for payment and the payment can be made without such withholding or deduction by the presentation of the Note for payment elsewhere;
  - (d) any tax, assessment, withholding or deduction required by sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended ("**FATCA**"), any current or future U.S. Treasury Regulations or rulings promulgated thereunder, any intergovernmental agreement between the United States and any other jurisdiction to implement FATCA (an "**IGA**"), any law, regulation or other official guidance implementing FATCA or an IGA, or any agreement with the U.S. Internal Revenue Service under FATCA;
  - (e) any taxes payable other than by deduction or withholding from payments under, or with respect to, the Notes, the Parent Guarantee or any Subsidiary Guarantee;
  - (f) any combination of taxes, duties, assessments or other governmental charges referred to in the preceding clauses (a), (b), (c), (d) and (e); or
- (2) to a Holder that is a fiduciary, partnership, limited liability company or person other than the sole beneficial owner of any payment to the extent that such payment would be required to be included for tax purposes in the income under the laws of a Relevant Jurisdiction of a beneficiary or settlor with respect to the fiduciary, or a member of that partnership or limited liability company or a beneficial owner who would not have been entitled to such Additional Amounts had that beneficiary, settlor, partner or beneficial owner been the Holder thereof.

The Issuer, the Parent Guarantor, a Surviving Person or the relevant Subsidiary Guarantor, as the case may be, will (i) make such withholding or deduction and (ii) remit the full amount deducted or withheld to the relevant authority in accordance with applicable law. The Issuer, the Parent Guarantor, a Surviving Person or the relevant Subsidiary Guarantor, as the case may be, will make reasonable efforts to obtain certified copies of tax receipts evidencing the payment of any taxes so deducted or withheld from the Relevant Jurisdiction imposing such taxes. The Issuer, the Parent Guarantor, a Surviving Person or the relevant Subsidiary Guarantor, as the case may be, will furnish to the Holders and the Principal Paying Agent as soon as practicable after the date the payment of any taxes so deducted or withheld is due pursuant to applicable law, either certified copies of tax receipts evidencing such payment or, if such receipts are not obtainable, other evidence of such payments.

If the Issuer, the Parent Guarantor, a Surviving Person or the relevant Subsidiary Guarantor, as the case may be, will be obligated to pay Additional Amounts with respect to any payment under or with respect to the Notes, it will, at least 30 days prior to the date such payment is due and payable (or, if such obligation to pay Additional Amounts arises after the 30th day prior to such date, promptly after such obligation arises), deliver to the Trustee an Officer's Certificate stating the fact that such Additional Amounts will be payable and the amounts so payable and will set forth such other information necessary to enable the Principal Paying Agent to pay such Additional Amounts to the Holders on such payment date.

In addition, the Issuer, the Parent Guarantor, a Surviving Person or the relevant Subsidiary Guarantor, as the case may be, will pay any stamp, issue, registration, documentary, value added or other similar taxes and other duties (including interest and penalties) payable in any Relevant Jurisdiction in respect of the creation, issue, offering, execution or enforcement of the Notes, or any documentation with respect thereto.

Whenever there is mentioned in any context the payment of principal of, premium (if any) or interest, on, any of Note or under the Parent Guarantee or any Subsidiary Guarantee, such mention shall be deemed to include payment of Additional Amounts provided for in the Indenture to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

## **REDEMPTION FOR TAXATION REASONS**

The Notes may be redeemed, at the option of the Issuer or a Surviving Person, as a whole but not in part, upon giving not less than 30 days' nor more than 60 days' notice to the Holders and the Trustee (which notice shall be irrevocable), at a redemption price equal to 100% of the principal amount thereof, together with accrued and unpaid interest (including any Additional Amount), if any, to (but not including) the date fixed by the Issuer or the Surviving Person, as the case may be, for redemption (the "**Tax Redemption Date**") if, as a result of:

- (1) any change in, or amendment to, the laws (or any regulations or rulings promulgated thereunder) of a Relevant Taxing Jurisdiction affecting taxation; or
- (2) any change in the existing official position or the stating of an official position regarding the application or interpretation of such laws, regulations or rulings (including a holding, judgment or order by a court of competent jurisdiction),

which change or amendment is announced and becomes effective or, in the case of an official position, is announced (i) with respect to the Issuer or the Parent Guarantor, on or after the Original Issue Date, or (ii) with respect to any future Subsidiary Guarantor or Surviving Person, on or after the date such future Subsidiary Guarantor or Surviving Person becomes a Subsidiary Guarantor or Surviving Person, respectively, with respect to any payment due or to become due under the Notes or the Indenture, the Issuer, the Parent Guarantor, such Surviving Person or Subsidiary Guarantor, as the case may be, is, or on the next Interest Payment Date would be, required to pay Additional Amounts, and such requirement cannot be avoided by the taking of reasonable measures by the Issuer, the Parent Guarantor, such Surviving Person or Subsidiary Guarantor, as the case may be; *provided* that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer, the Parent Guarantor, such Surviving Person or Subsidiary Guarantor, as the case may be, would be obligated to pay such Additional Amounts if a payment in respect of the Notes were then due.

Prior to the mailing of any notice of redemption of the Notes pursuant to the foregoing, the Issuer, the Parent Guarantor, a Surviving Person or Subsidiary Guarantor, as the case may be, will deliver to the Trustee at least 30 days but not more than 60 days before the Tax Redemption Date:

- (1) an Officer's Certificate stating that such change or amendment referred to in the prior paragraph has occurred, describing the facts related thereto and stating that such requirement cannot be avoided by the Issuer, the Parent Guarantor, such Surviving Person or Subsidiary Guarantor, as the case may be, by taking reasonable measures available to it; and
- (2) an Opinion of Counsel or an opinion of a tax consultant, in either case of recognized standing with respect to tax matters of the Relevant Taxing Jurisdiction or amendment referred to in the prior paragraph.

The Trustee shall be entitled to accept, without further enquiry and without liability to the Holders such certificates and opinions as conclusive evidence of the matters stated therein and the conditions precedent described above, in which event it shall be conclusive and binding on the Holders.

Any Notes that are redeemed for taxation reasons will be cancelled.

## **OPEN MARKET PURCHASES**

The Issuer, the Parent Guarantor or any Subsidiary Guarantor or any of its Affiliates may purchase Notes in the open market or by tender or by any other means at any price, so long as such acquisition does not otherwise violate the terms of the Indenture; *provided* that all Notes redeemed or repurchased by the Parent Guarantor or any of its Affiliates may not be reissued or resold.

## **CERTAIN COVENANTS**

Set forth below are summaries of certain covenants contained in the Indenture. For the avoidance of doubt, neither the Trustee nor any Agent shall have any obligation to monitor the compliance of any of the following covenants by the Issuer, the Parent Guarantor or any Subsidiary Guarantor.

### **Limitation on Indebtedness and Preferred Stock**

- (1) The Issuer and the Parent Guarantor will not, and will not permit any Restricted Subsidiary to, Incur any Indebtedness (including Acquired Indebtedness); *provided* that the Issuer, the Parent Guarantor, any Subsidiary Guarantor or any Finance Subsidiary may Incur Indebtedness (including Acquired Indebtedness), and any Non-Guarantor Subsidiary (other than any Finance Subsidiary) may Incur Permitted Subsidiary Indebtedness if, after giving effect to the Incurrence of such Indebtedness and the receipt and application of the proceeds therefrom, (x) no Default has occurred and is continuing and (y) the Consolidated Debt to Equity Ratio would be no greater than 2.5 to 1.0 with respect to any Incurrence of Indebtedness.

- (2) Notwithstanding the foregoing, the Parent Guarantor and, to the extent provided below, any Restricted Subsidiary may Incur each and all of the following ("**Permitted Indebtedness**"):
- (a) Indebtedness under the Notes (excluding any Additional Notes), any other substantially identical instruments issued in the future and any Subsidiary Guarantee;
  - (b) any *Pari Passu* Guarantee;
  - (c) Indebtedness of the Parent Guarantor or any Restricted Subsidiary outstanding on the Original Issue Date excluding Indebtedness permitted under clause (d); *provided* that such Indebtedness of Restricted Subsidiaries shall be included in the calculation of Permitted Subsidiary Indebtedness (other than any such Indebtedness described in clause (a) or (b) above or clause (f) or (l) below);
  - (d) Indebtedness of the Parent Guarantor or any Restricted Subsidiary owed to the Parent Guarantor or any Restricted Subsidiary; *provided* that (i) any event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any subsequent transfer of such Indebtedness (other than to the Parent Guarantor or any Restricted Subsidiary) shall be deemed, in each case, to constitute an Incurrence of such Indebtedness not permitted by this clause (d), (ii) if the Issuer is the obligor on such Indebtedness, such Indebtedness (other than any intercompany loan from a Finance Subsidiary to the Issuer to transfer the proceeds of any Indebtedness) must expressly be subordinated in right of payment to the Notes, if the Parent Guarantor is the obligor on such Indebtedness (and neither the Issuer nor any Subsidiary Guarantor is the obligee), such Indebtedness (other than any intercompany loan from a Finance Subsidiary to the Parent Guarantor to transfer the proceeds of any Indebtedness) must expressly be subordinated in right of payment to the Parent Guarantee, or if any Subsidiary Guarantor is the obligor on such Indebtedness (and neither the Issuer nor the Parent Guarantor is the obligee), such Indebtedness (other than any intercompany loan from a Finance Subsidiary to such Subsidiary Guarantor to transfer the proceeds of any Indebtedness) must be unsecured and be expressly subordinated in right of payment to the Subsidiary Guarantee, and (iii) if the Indebtedness is owed to the Issuer, the Parent Guarantor or any Subsidiary Guarantor, such indebtedness must be evidenced by an unsubordinated loan agreement or a similar instrument under applicable law; *provided* that paragraphs (ii) and (iii) shall apply only to Indebtedness Incurred subsequent to the Original Issue Date;
  - (e) Indebtedness ("**Permitted Refinancing Indebtedness**") issued in exchange for, or the net proceeds of which are used to refinance or refund, replace, exchange, renew, repay, redeem, defease, discharge or extend (collectively, "**refinance**" and "**refinances**" and "**refinanced**" shall have a correlative meaning), then outstanding Indebtedness (or Indebtedness repaid substantially concurrently with but in any case before the Incurrence of such Permitted Refinancing Indebtedness) Incurred under the immediately preceding paragraph (1) or clauses (a), (b), (c), (g), (m), (r), (s) or (t) of this paragraph (2) and any refinancings thereof in an amount not to exceed the amount so refinanced or refunded (plus premiums, accrued interest, fees and expenses); *provided* that (i) Indebtedness the proceeds of which are used to refinance or refund the Notes or Indebtedness that is *pari passu* with, or subordinated in right of payment to, the Notes, the Parent Guarantee or any Subsidiary Guarantee shall only be permitted under this clause (e) if (A) in case the Notes are refinanced in part or the Indebtedness to be refinanced is *pari passu* with the Notes, the Parent Guarantee or, if any, the Subsidiary Guarantees, such new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Indebtedness is outstanding, is *pari passu* with, or expressly made subordinate in right of payment to, the remaining Notes, the Parent Guarantee or, if any, the Subsidiary Guarantees, or (B) in case the Indebtedness to be refinanced is subordinated in right of payment to the Notes, the Parent Guarantee or, if any, the Subsidiary Guarantees, such new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Indebtedness is issued or remains outstanding, is expressly made subordinate in right of payment to the Notes, the Parent Guarantee or, if any, the Subsidiary Guarantees at least to the extent that the Indebtedness to be refinanced is subordinated to the Notes, the Parent Guarantee or, if any, the Subsidiary Guarantee, (ii) such new Indebtedness (other than the Permitted Refinancing Indebtedness to refinance the then outstanding Indebtedness (or Indebtedness repaid substantially concurrently with but in any case before the Incurrence of such Permitted Refinancing Indebtedness) Incurred under clauses (a) of this paragraph (2) and any refinancings

thereof in an amount not to exceed the amount so refinanced or refunded (plus premiums, accrued interest, fees and expenses), determined as of the date of Incurrence of such new Indebtedness, does not mature prior to the Stated Maturity of the Indebtedness to be refinanced or refunded, and the Average Life of such new Indebtedness is at least equal to the remaining Average Life of the Indebtedness to be refinanced or refunded, and (iii) in no event may Indebtedness of the Issuer, the Parent Guarantor or any Subsidiary Guarantor be refinanced pursuant to this clause by means of any Indebtedness of any Restricted Subsidiary that is not the Issuer or a Subsidiary Guarantor;

- (f) Indebtedness Incurred by the Parent Guarantor or any Restricted Subsidiary pursuant to Hedging Obligations entered into in the ordinary course of business and designed solely to protect the Parent Guarantor or any Restricted Subsidiary from fluctuations in interest rates, currencies or the price of commodities and not for speculation;
- (g) Indebtedness Incurred by the Parent Guarantor or any Restricted Subsidiary in the ordinary course of business (i) representing Capitalized Lease Obligations or (ii) constituting purchase money Indebtedness Incurred for the purpose of financing (x) all or any part of the purchase price of assets (including the acquisition of business and dealerships), real or personal property (including the lease purchase price of land use rights) or equipment to be used in the ordinary course of business by the Parent Guarantor or a Restricted Subsidiary in the Permitted Business, including any such purchase through the acquisition of Capital Stock of any Person that owns such assets, real or personal property or equipment which will, upon acquisition, become a Restricted Subsidiary, or (y) all or any part of the purchase price or the cost of development, construction or improvement of real or personal property (including the lease purchase price of land use rights) or equipment to be used in the ordinary course of business by the Parent Guarantor or such Restricted Subsidiary in the Permitted Business; *provided* that in the case of clauses (x) and (y), (A) the aggregate principal amount of such Indebtedness shall not exceed such purchase price or cost, (B) such Indebtedness shall be Incurred no later than 180 days after the acquisition of such property or completion of such development, construction or improvement *provided* that this sub-clause (B) shall not apply if such Incurrence is as a result of a Restricted Subsidiary ceasing to be a Restricted Subsidiary or as a result of a transfer of Indebtedness, and (C) on the date of the Incurrence of such Indebtedness and after giving effect thereto, the sum of (1) the aggregate principal amount outstanding of all such Indebtedness Incurred pursuant to this clause (g) (together with any refinancings thereof, but excluding any Guarantee Incurred under such clause to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) and (2) the aggregate principal amount outstanding of all Indebtedness Incurred under clauses (p), (q), (r), (s), (t), (v) and (w) in this covenant (together with any refinancings thereof), does not exceed an amount equal to 25% of Total Assets;
- (h) Indebtedness Incurred by the Parent Guarantor or any Restricted Subsidiary constituting reimbursement obligations with respect to workers' compensation claims or self-insurance obligations or bid, performance or surety bonds;
- (i) Indebtedness Incurred by the Parent Guarantor or any Restricted Subsidiary constituting reimbursement obligations with respect to letters of credit, bills or trade guarantees issued in the ordinary course of business to the extent that such letters of credit, bills or trade guarantees are not drawn upon or, if drawn upon, to the extent such drawing is reimbursed no later than the 30 days following receipt by the Parent Guarantor or such Restricted Subsidiary of a demand for reimbursement;
- (j) Indebtedness arising from agreements providing for indemnification, adjustment of purchase price or similar obligations, or from Guarantees or letters of credit, surety bonds or performance bonds securing any obligation of the Parent Guarantor or any Restricted Subsidiary pursuant to such agreements, in any case, Incurred in connection with the disposition of any business, assets or Restricted Subsidiary, other than Guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such business, assets or Restricted Subsidiary for the purpose of financing such acquisition; *provided* that the maximum aggregate liability in respect of all such Indebtedness in the nature of such Guarantee shall at no time exceed the gross proceeds actually received from the sale of such business, assets or Restricted Subsidiary;

- (k) 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, however, that such Indebtedness is extinguished within five Business Days of Incurrence;
- (l) (i) Guarantees by the Issuer, the Parent Guarantor or any Subsidiary Guarantor of Indebtedness of the Parent Guarantor or any Restricted Subsidiary that was permitted to be Incurred by another provision of this covenant, or (ii) Guarantees by any Restricted Subsidiary of Indebtedness of another Restricted Subsidiary (that is not a Subsidiary Guarantor) that was permitted to be Incurred under this Indenture;
- (m) Indebtedness Incurred by any Restricted Subsidiary arising from the use of bank acceptance notes or commercial notes to purchase automobiles or automobile-related spare parts, equipment or accessories in the ordinary course of business, provided that such Indebtedness is settled within 360 days of Incurrence;
- (n) Indebtedness with a maturity date of one year or less used by the Parent Guarantor or any Restricted Subsidiary for working capital purposes to purchase automobiles, automobile-related spare parts, equipment or accessories in the ordinary course of business;
- (o) Indebtedness of the Parent Guarantor or any Restricted Subsidiary with a maturity of one year or less used by the Parent Guarantor or any Restricted Subsidiary for working capital (other than Indebtedness incurred to purchase automobiles or automobile-related spare parts, equipment or accessories in the ordinary course of business); provided that the aggregate principal amount outstanding of all Indebtedness permitted under this clause (o) (together with refinancings thereof, but excluding any Guarantee Incurred under such clause to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount), does not exceed US\$50.0 million;
- (p) Indebtedness arising from Guarantees provided by the Parent Guarantor or any Restricted Subsidiary in favor of any bank or other similar financial institutions in the ordinary course of business in connection with (i) loans provided by such banks or other similar financial institutions to purchasers of automobiles from the Parent Guarantor or any Restricted Subsidiaries, or (ii) loans provided by such banks or other similar financial institutions to an Independent Third Party, provided that such Independent Third Party has also provided Guarantees in the same amount in favor of any bank or other similar financial institutions for loans provided to the Parent Guarantor or a Restricted Subsidiary, as the case may be; provided, further, that on the date of the Incurrence of any Indebtedness and after giving effect thereto, the sum of (1) the aggregate principal amount outstanding of all such Indebtedness Incurred pursuant to this clause (p) (together with any refinancings thereof, but excluding any Guarantee Incurred under such clause to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) plus (2) the aggregate principal amount outstanding of all Indebtedness Incurred under clauses (g), (q), (r), (s), (t), (v) and (w) in this covenant (together with any refinancings thereof, but excluding any Guarantee Incurred under such clauses to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) does not exceed an amount equal to 25% of Total Assets;
- (q) Indebtedness Incurred pursuant to any Credit Facility; provided that, on the date of the Incurrence of any Indebtedness and after giving effect thereto, the sum of (1) the aggregate principal amount outstanding of all such Indebtedness Incurred pursuant to this clause (q) (together with any refinancings thereof, but excluding any Guarantee Incurred under such clause to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) plus (2) the aggregate principal amount outstanding of all Indebtedness Incurred under clauses (g), (p), (r), (s), (t), (v) and (w) in this covenant (together with any refinancings thereof, but excluding any Guarantee Incurred under such clauses to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) does not exceed an amount equal to 25% of Total Assets;
- (r) Acquired Indebtedness of any Restricted Subsidiary Incurred and outstanding on the date on which such Restricted Subsidiary became a Restricted Subsidiary (other than Indebtedness Incurred (i) to provide all or any portion of the funds utilized to consummate the transaction or

series of transactions pursuant to which a Person becomes a Restricted Subsidiary or (ii) otherwise in contemplation of a Person becoming a Restricted Subsidiary or any such acquisition); *provided* that, on the date of the Incurrence of any Indebtedness and after giving effect thereto, the sum of (1) the aggregate principal amount outstanding of all such Indebtedness Incurred pursuant to this clause (r) (together with any refinancings thereof, but excluding any Guarantee Incurred under such clause to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) plus (2) the aggregate principal amount outstanding of all Indebtedness Incurred under clauses (g), (p), (q), (s), (t), (v) and (w) in this covenant (together with any refinancings thereof, but excluding any Guarantee Incurred under such clauses to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) does not exceed an amount equal to 25% of Total Assets;

- (s) Bank Deposit Secured Indebtedness Incurred by the Parent Guarantor or any Restricted Subsidiary; *provided* that, on the date of the Incurrence of any Indebtedness and after giving effect thereto, the sum of (1) the aggregate principal amount outstanding of all such Indebtedness Incurred pursuant to this clause (s) (together with any refinancings thereof, but excluding any Guarantee Incurred under such clause to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) plus (2) the aggregate principal amount outstanding of all Indebtedness Incurred under clauses (g), (p), (q), (r), (t), (v) and (w) in this covenant (together with any refinancings thereof, but excluding any Guarantee Incurred under such clauses to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) does not exceed an amount equal to 25% of Total Assets;
- (t) Indebtedness Incurred by the Parent Guarantor or any Restricted Subsidiary which is secured by the Investment Properties or by the assets or the Capital Stock of the Parent Guarantor or such Restricted Subsidiary directly or indirectly owning such Investment Properties; *provided* that, the sum of (1) the aggregate principal amount outstanding of all such Indebtedness Incurred pursuant to this clause (t) (together with any refinancings thereof, but excluding any Guarantee Incurred under such clause to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) plus (2) the aggregate principal amount outstanding of all Indebtedness Incurred under clauses (g), (p), (q), (r), (s), (v) and (w) in this covenant (together with any refinancings thereof, but excluding any Guarantee Incurred under such clauses to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) does not exceed an amount equal to 25% of Total Assets;
- (u) Indebtedness of the Parent Guarantor or any Restricted Subsidiary constituting an obligation to pay the deferred purchase price of Capital Stock in a Restricted Subsidiary pursuant to a Staged Acquisition Agreement, to the extent that such deferred purchase price is paid within 12 months after the date the Parent Guarantor or such Restricted Subsidiary enters into such Staged Acquisition Agreement;
- (v) Indebtedness Incurred by the Parent Guarantor or any Restricted Subsidiary arising from any Investment made by a Financial Company Investor in the Parent Guarantor or any Restricted Subsidiary; *provided* that the sum of (1) the aggregate principal amount outstanding of all such Indebtedness Incurred pursuant to this clause (v) (together with any refinancings thereof, but excluding any Guarantee Incurred under such clause to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) plus (2) the aggregate principal amount outstanding of all Indebtedness Incurred under clauses (g), (p), (q), (r), (s), (t) and (w) in this covenant (together with any refinancings thereof, but excluding any Guarantee Incurred under such clauses to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) does not exceed an amount equal to 25% of Total Assets;
- (w) Indebtedness Incurred by the Parent Guarantor or any Restricted Subsidiary constituting a Guarantee of Indebtedness of any Person (other than a Restricted Subsidiary) by the Parent Guarantor or such Restricted Subsidiary; *provided* that the sum of (1) the aggregate principal amount outstanding of all such Indebtedness Incurred pursuant to this clause (w) (together with any refinancings thereof, but excluding any Guarantee Incurred under such clause to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) plus (2) the aggregate principal amount outstanding of all Indebtedness Incurred under clauses (g), (p), (q), (r), (s), (t) and (v) in this covenant (together with any refinancings thereof, but excluding any Guarantee Incurred under such clauses to the extent the amount of such Guarantee is otherwise

reflected in such aggregate principal amount) does not exceed an amount equal to 25% of Total Assets; and

- (x) Indebtedness of the Parent Guarantor or any Restricted Subsidiary in an aggregate principal amount outstanding at any time (together with refinancings thereof, but excluding any Guarantee Incurred under such clause to the extent the amount of such Guarantee is otherwise reflected in such aggregate principal amount) not to exceed US\$20.0 million (or the Dollar Equivalent thereof).
- (3) For purposes of determining compliance with this "Limitation on Indebtedness and Preferred Stock" covenant, in the event that an item of Indebtedness or any portion thereof meets the criteria of more than one of the types of Indebtedness described above, including under the proviso of part (1), the Parent Guarantor, in its sole discretion, shall classify, and from time to time may reclassify, such item of Indebtedness or the relevant portion thereof, as applicable, and only be required to include such item of Indebtedness or the relevant portion thereof, as applicable, as one of such types.
- (4) For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Indebtedness under this "Limitation on Indebtedness and Preferred Stock" covenant, the 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 Indebtedness, or first committed, in the case of revolving credit Indebtedness; *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.
- (5) Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that may be Incurred pursuant to this covenant will not be deemed to be exceeded with respect to any outstanding Indebtedness due solely to the result of fluctuations in the exchange rates of currencies; *provided* that such Indebtedness was permitted to be Incurred at the time of such Incurrence.

#### **Limitation on Investment**

The Parent Guarantor will not, and will not permit any Restricted Subsidiary to, directly or indirectly make any Investment, other than a Permitted Investment, if, at the time of, and after giving effect to, the proposed Investment:

- (1) Default has occurred and is continuing or would occur as a result of such Investment;
- (2) the Parent Guarantor could not Incur at least US\$1.00 of Indebtedness under the proviso in the first paragraph of part (1) of the covenant under the caption "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;" or
- (3) such Investment, together with the aggregate amount of all Investment (other than any Permitted Investment) made by the Parent Guarantor and its Restricted Subsidiaries after the Measurement Date, shall exceed:
  - (a) 10% of Total Assets; plus
  - (b) 100% of the aggregate Net Cash Proceeds received by the Parent Guarantor after the Measurement Date (1) as a capital contribution to its common equity or from the issuance and sale of its Capital Stock (other than Disqualified Stock) to a Person who is not a Subsidiary of the Parent Guarantor, (2) from the issuance of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Parent Guarantor that have been converted or exchanged into Capital Stock (other than Disqualified Stock) of the Parent Guarantor, or (3) from the exercise by a Person who is not a Subsidiary of the Parent Guarantor of any options, warrants or other rights to acquire Capital Stock of the Parent Guarantor (other than Disqualified Stock); plus

- (c) the amount by which Indebtedness of the Parent Guarantor or any of its Restricted Subsidiaries is reduced on the Parent Guarantor's consolidated balance sheet upon the conversion or exchange (other than by a Subsidiary of the Parent Guarantor) subsequent to the Measurement Date of any Indebtedness of the Parent Guarantor or any of its Restricted Subsidiaries convertible or exchangeable into Capital Stock (other than Disqualified Stock) of the Parent Guarantor (less the amount of any cash, or the Fair Market Value of any other property, distributed by the Parent Guarantor upon such conversion or exchange); *provided, however*, that the foregoing amount shall not exceed the Net Cash Proceeds received by the Parent Guarantor or any of its Restricted Subsidiaries from the Incurrence of such Indebtedness; plus
- (d) an amount equal to the net reduction in Investments that were made after the Measurement Date in any Person resulting from:
  - (A) payments of interest on Indebtedness, dividends or repayments of loans or advances or other transfer of property by such Person, in each case to the Parent Guarantor or any Restricted Subsidiary,
  - (B) the unconditional release of a Guarantee provided by the Parent Guarantor or a Restricted Subsidiary after the Measurement Date of an obligation of another Person,
  - (C) to the extent that an Investment made after the Measurement Date is sold or otherwise liquidated or repaid for cash, the lesser of (x) cash return of capital with respect to such Investment (less the cost of disposition, if any) and (y) the initial amount of such Investment, or
  - (D) from redesignations of Unrestricted Subsidiaries as Restricted Subsidiaries, not to exceed, in each case, the amount of Investments made by the Parent Guarantor or a Restricted Subsidiary after the Measurement Date in any such Person.

The foregoing provision shall not be violated by reason of:

- (1) the redemption, repurchase or other acquisition of Capital Stock of the Parent Guarantor, the Issuer or any Subsidiary Guarantor (or options, warrants or other rights to acquire such Capital Stock) in exchange for, or out of the Net Cash Proceeds of a substantially concurrent capital contribution or sale (other than to a Subsidiary of the Parent Guarantor) of, shares of Capital Stock (other than Disqualified Stock) of the Parent Guarantor or Capital Stock (other than Disqualified Stock) of the Issuer or any Subsidiary Guarantor (or options, warrants or other rights to acquire such Capital Stock); *provided* that the amount of any such Net Cash Proceeds that are utilized for any such Investment will be excluded from clause (3)(b) of the preceding paragraph;
- (2) cash payments in lieu of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of the Parent Guarantor; *provided, however*, that any such cash payment shall not be for the purpose of evading the limitation of this "Limitation on Investment" covenant (as determined in good faith by the Board of Directors of the Parent Guarantor);
- (3) payments made under a Staged Acquisition Agreement to acquire the Capital Stock of a Person; *provided* that such Person becomes a Restricted Subsidiary on or before the last date in the period stipulated in such Staged Acquisition Agreement for which the purchase price can be made (such date not to exceed 12 months from the date the Staged Acquisition Agreement was entered into) (the "**Deadline Date**"); *provided* further that in the event such Person does not become a Restricted Subsidiary on or before the Deadline Date, all payments previously made under this clause (3) shall be aggregated and must satisfy the other conditions under this "Limitation on Investment;" and
- (4) the purchase of Capital Stock of the Parent Guarantor or any Restricted Subsidiary held by any Financial Company Investor in respect of any Indebtedness or Preferred Stock outstanding on the Original Issue Date or permitted to be Incurred under paragraph (2)(v) of the "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;"

*provided* that, in the case of clause (1) of the preceding paragraph, no Default shall have occurred and be continuing or would occur as a consequence of the actions or payments set forth therein.

The amount of any Investment (other than cash) will be the Fair Market Value on the date of the Investment in the asset(s) or securities proposed to be transferred or issued by the Parent Guarantor or the Restricted Subsidiary, as the case may be. The value of any assets or securities that are required to be valued by this covenant will be the Fair Market Value.

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

- (1) Except as provided below, the Parent Guarantor will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create or otherwise cause or permit to exist or become effective any encumbrance or restriction on the ability of any Restricted Subsidiary to:
  - (a) pay dividends or make any other distribution on any Capital Stock of such Restricted Subsidiary owned by the Parent Guarantor or any other Restricted Subsidiary;
  - (b) pay any Indebtedness or other obligation owed to the Parent Guarantor or any other Restricted Subsidiary;
  - (c) make loans or advances to the Parent Guarantor or any other Restricted Subsidiary; or
  - (d) sell, lease or transfer any of its property or assets to the Parent Guarantor or any other Restricted Subsidiary;

*provided that*, for the avoidance of doubt the following shall not be deemed to constitute such an encumbrance or restriction: (i) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on Common Stock; (ii) the subordination of loans or advances made to the Parent Guarantor or any Restricted Subsidiary to other Indebtedness Incurred by the Parent Guarantor or any Restricted Subsidiary; and (iii) the provisions contained in documentation governing Indebtedness requiring transactions between or among the Parent Guarantor and any Restricted Subsidiary or between or among any Restricted Subsidiary to be on fair and reasonable terms or on an arm's length basis.

- (2) The provisions of paragraph (1) do not apply to any encumbrances or restrictions:
  - (a) existing in agreements as in effect on the Original Issue Date, or in the Notes, the Parent Guarantee, any Subsidiary Guarantee, the Indenture, or any extensions, amendments, refinancings, renewals or replacements of any of the foregoing agreements; *provided that*, the encumbrances and restrictions in any such extension, amendment, refinancing, renewal or replacement, taken as a whole, are no more restrictive in any material respect than those encumbrances or restrictions that are then in effect and that are being extended, amended, refinanced, renewed or replaced;
  - (b) existing under or by reason of applicable law, rule, regulation or order;
  - (c) with respect to any Person or the property or assets of such Person acquired by the Parent Guarantor or any Restricted Subsidiary, existing at the time of such acquisition and not incurred in contemplation thereof, which encumbrances or restrictions are not applicable to any Person or the property or assets of any Person other than such Person or the property or assets of such Person so acquired, and any extensions, amendments, refinancings, renewals or replacements thereof; *provided that*, the encumbrances and restrictions in any such extension, amendment, refinancing, renewal or replacement, taken as a whole, are no more restrictive in any material respect to the Holders than those encumbrances or restrictions that are then in effect and that are being extended, amended, refinanced, renewed or replaced;
  - (d) that otherwise would be prohibited by the provision described in clause (1)(d) of this covenant if they arise, or are agreed to, in the ordinary course of business and (i) restrict in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease or license, (ii) exist by virtue of any Lien on, or agreement to transfer, option or similar right with respect to any property or assets of the Parent Guarantor or any Restricted Subsidiary not otherwise prohibited by the Indenture or (iii) do not relate to any Indebtedness, and that do not, individually or in the aggregate, detract from the value of property or assets of the Parent Guarantor or any Restricted Subsidiary in any manner material to the Parent Guarantor or any Restricted Subsidiary;

- (e) with respect to a Restricted Subsidiary and imposed pursuant to an agreement that has been entered into for the sale or disposition of all or substantially all of the Capital Stock of, or property and assets of, such Restricted Subsidiary that is permitted by the "— Certain Covenants — Limitation on Sales and Issuances of Capital Stock in Restricted Subsidiaries," "— Certain Covenants — Limitation on Indebtedness and Preferred Stock" and "— Certain Covenants — Limitation on Asset Sales" covenants;
- (f) with respect to any Restricted Subsidiary and imposed pursuant to an agreement that has been entered into for the Incurrence of Indebtedness permitted under clauses (d), (g), (k), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w) or (x) of paragraph (2) of the "— Certain Covenants — Limitation on Indebtedness and Preferred Stock" covenant if, as determined by the Board of Directors, the encumbrances or restrictions are (i) customary for such type of agreement and (ii) would not, at the time agreed to, be expected to materially and adversely affect the ability of the Issuer, the Parent Guarantor or any Subsidiary Guarantor to make required payment on the Notes, the Parent Guarantee or any Subsidiary Guarantee, as the case may be; or
- (g) existing in customary provisions in joint venture agreements and other similar agreements permitted under the Indenture, to the extent such encumbrance or restriction relates to the activities or assets of a Restricted Subsidiary that is a party to such joint venture and if (as determined in good faith by the Board of Directors) (i) the encumbrances or restrictions are customary for a joint venture or similar agreement of that type and (ii) the encumbrances or restrictions would not, at the time agreed to, be expected to materially and adversely affect the ability of the Issuer, the Parent Guarantor or any Subsidiary Guarantor to make required payment on the Notes, the Parent Guarantee or any Subsidiary Guarantee, as the case may be.

#### **Limitation on Sales and Issuances of Capital Stock in Restricted Subsidiaries**

The Parent Guarantor will not sell, and will not permit any Restricted Subsidiary, directly or indirectly, to issue or sell, any shares of Capital Stock of a Restricted Subsidiary (including in each case options, warrants or other rights to purchase shares of such Capital Stock) except:

- (1) to the Parent Guarantor or a Wholly Owned Restricted Subsidiary, or in the case of a Restricted Subsidiary that is not a Wholly Owned Restricted Subsidiary, *pro rata* to its shareholders or incorporators or on a basis more favorable to the Parent Guarantor;
- (2) to the extent such Capital Stock represents director's qualifying shares or is required by applicable law to be held by a Person other than the Parent Guarantor or a Wholly Owned Restricted Subsidiary;
- (3) the issuance or sale of Capital Stock of a Restricted Subsidiary (which remains a Restricted Subsidiary after any such issuance or sale); *provided* that, the Parent Guarantor or such Restricted Subsidiary applies the Net Cash Proceeds of such issuance or sale in accordance with the "— Certain Covenants — Limitation on Asset Sales" covenant to the extent required thereunder; and
- (4) the issuance or sale of Capital Stock of a Restricted Subsidiary if, immediately after giving effect to such issuance or sale, such Restricted Subsidiary would no longer be a Restricted Subsidiary and any remaining Investment in such Person would have been permitted to be made under the "— Certain Covenants — Limitation on Investment" covenant if made on the date of such issuance or sale and *provided* that, the Parent Guarantor complies with the "— Certain Covenants — Limitation on Asset Sales" covenant to the extent required thereunder.

#### **Limitation on Issuances of Guarantees by Restricted Subsidiaries**

The Parent Guarantor will not permit any Restricted Subsidiary (other than the Issuer or a Subsidiary Guarantor), directly or indirectly, to Guarantee any Indebtedness ("**Guaranteed Indebtedness**") of the Issuer, the Parent Guarantor or any Subsidiary Guarantor, unless (1)(a) such Restricted Subsidiary, simultaneously executes and delivers a supplemental indenture to the Indenture providing for an unsubordinated Subsidiary Guarantee of payment of the Notes by such Restricted Subsidiary and (b) such Restricted Subsidiary waives and will not in any manner whatsoever claim or take the benefit or advantage of, any rights of reimbursement, indemnity or subrogation or any other rights against the Parent Guarantor or any other Restricted Subsidiary as a result of any payment by such Restricted Subsidiary under its Subsidiary Guarantee until the Notes have been paid in full or (2) such Guarantee is permitted by clauses (2)(b), (2)(c), (2)(d), (2)(l)(ii) or (2)(s) (in the case of clause (2)(s),

with respect to the Guarantee provided by the Parent Guarantor or any Restricted Subsidiary through Liens to secure, directly or indirectly, any Bank Deposit Secured Indebtedness), under the caption "— Certain Covenants — Limitation on Indebtedness and Preferred Stock."

If the Guaranteed Indebtedness (1) ranks *pari passu* in right of payment with the Notes, the Parent Guarantee or any Subsidiary Guarantee, then the Guarantee of such Guaranteed Indebtedness will rank *pari passu* in right of payment with, or subordinated to, the Subsidiary Guarantee or (2) is subordinated in right of payment to the Notes, the Parent Guarantee or any Subsidiary Guarantee, then the Guarantee of such Guaranteed Indebtedness will be subordinated in right of payment to the Subsidiary Guarantee at least to the extent that the Guaranteed Indebtedness is subordinated to the Notes, the Parent Guarantee or, the Subsidiary Guarantees, as the case may be.

#### **Limitation on Transactions with Shareholders and Affiliates**

The Parent Guarantor will not, and will not permit any Restricted Subsidiary to, directly or indirectly, enter into, renew or extend any transaction or arrangement (including, without limitation, the purchase, sale, lease or exchange of property or assets, or the rendering of any service) with (x) any holder (or any Affiliate of such holder) of 10% or more of any class of Capital Stock of the Parent Guarantor or (y) any Affiliate of the Parent Guarantor (each an "**Affiliate Transaction**"), unless:

- (1) the Affiliate Transaction is on fair and reasonable terms that are no less favorable to the Parent Guarantor or the relevant Restricted Subsidiary, as the case may be, than those that would have been obtained in a comparable transaction by the Parent Guarantor or the relevant Restricted Subsidiary with a Person that is not an Affiliate of the Parent Guarantor; and
- (2) the Parent Guarantor delivers to the Trustee:
  - (a) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of US\$5.0 million (or the Dollar Equivalent thereof), a Board Resolution set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with this covenant and such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors; and
  - (b) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of US\$10.0 million (or the Dollar Equivalent thereof), in addition to the Board Resolution required in clause 2(a) above, an opinion as to the fairness to the Parent Guarantor or such Restricted Subsidiary, as the case may be, of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of recognized international standing.

The foregoing limitation does not limit, and shall not apply to:

- (1) the payment of reasonable and customary regular fees to directors of the Parent Guarantor or any Restricted Subsidiary who are not employees of the Parent Guarantor or any Restricted Subsidiary;
- (2) transactions between or among the Parent Guarantor and any Wholly Owned Restricted Subsidiary or between or among Wholly Owned Restricted Subsidiaries;
- (3) any Investment permitted by the covenant described above under "— Certain Covenants — Limitation on Investment" if permitted by that covenant;
- (4) any sale of Capital Stock (other than Disqualified Stock) of the Parent Guarantor; and
- (5) any provision of Guarantee by any shareholder of the Parent Guarantor for Indebtedness Incurred by the Parent Guarantor or any of its Restricted Subsidiaries.

In addition, the requirements of clause (2) of the first paragraph of this covenant shall not apply to (i) Investments (other than Permitted Investments) not prohibited by the "Limitation on Investment" covenant, (ii) transactions pursuant to agreements in effect on the Original Issue Date and described in this offering memorandum, or any amendment or modification or replacement thereof, so long as such amendment, modification or replacement is not more disadvantageous to the Parent Guarantor and its Restricted Subsidiaries than the original agreement in effect on the Original Issue Date, (iii) Affiliate Services Transactions, and (iv) any transaction between or among

(A) the Parent Guarantor, any Wholly Owned Restricted Subsidiary and any Restricted Subsidiary that is not a Wholly Owned Restricted Subsidiary or (B) the Parent Guarantor or a Restricted Subsidiary and any Jointly Controlled Entity or Associate; *provided* that (1) in the case of clause (iii), the Parent Guarantor shall deliver to the Trustee within 90 calendar days after the end of the fiscal year of the Parent Guarantor, a Board Resolution set forth in an Officer's Certificate certifying that all such Affiliate Services Transactions individually and in the aggregate entered into during the prior fiscal year complied with this covenant and such Affiliate Services Transactions have in the aggregate been approved by a majority of the disinterested members of the Board of Directors and, (2) in the case of clause (iv), to the extent such transaction is not an Affiliate Service Transaction, none of the other shareholders or other partners of or in such Restricted Subsidiary, Jointly Controlled Entity or Associate, as the case may be, is a Person described in clauses (x) or (y) of the first paragraph of this covenant (other than by reason of such other shareholder or other partner being an officer or director of such Restricted Subsidiary, Jointly Controlled Entity or Associate, as the case may be).

### **Limitation on Liens**

The Parent Guarantor will not, and will not permit any Restricted Subsidiary to, directly or indirectly, incur, assume or permit to exist any Lien of any nature whatsoever on any of its assets or properties of any kind, whether owned at the Original Issue Date or thereafter acquired, except Permitted Liens, unless the Notes are (or, in respect of any Lien on the Parent Guarantor's or any Subsidiary Guarantor's property or assets, the Parent Guarantee or the Subsidiary Guarantee, as the case may be, is) secured equally and ratably with (or, if the obligation or liability to be secured by such Lien is subordinated in right of payment to the Notes, the Parent Guarantee or if any, the Subsidiary Guarantees, prior to) the obligation or liability secured by such Lien (without consent of Holders), for so long as such obligation or liability is secured by such Lien.

### **Limitation on Sale and Leaseback Transactions**

The Parent Guarantor will not, and will not permit any Restricted Subsidiary to, enter into any Sale and Leaseback Transaction; *provided* that the Parent Guarantor or any Restricted Subsidiary may enter into a Sale and Leaseback Transaction if:

- (1) the Parent Guarantor or such Restricted Subsidiary, as the case may be, could have (a) Incurred Indebtedness in an amount equal to the Attributable Indebtedness relating to such Sale and Leaseback Transaction under the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock" and (b) incurred a Lien to secure such Indebtedness pursuant to the covenant described above under "— Certain Covenants — Limitation on Liens," in which case, the corresponding Indebtedness will be deemed Incurred and the corresponding Lien will be deemed incurred pursuant to those provisions;
- (2) the gross cash proceeds of that Sale and Leaseback Transaction are at least equal to the Fair Market Value of the property that is the subject of such Sale and Leaseback Transaction; and
- (3) the transfer of assets in that Sale and Leaseback Transaction is permitted by, and the Parent Guarantor or such Restricted Subsidiary, as the case may be, applies the proceeds of such transaction in compliance with, the covenant described below under "— Certain Covenants — Limitation on Asset Sales."

### **Limitation on Asset Sales**

The Parent Guarantor will not, and will not permit any Restricted Subsidiary to, consummate any Asset Sale, unless:

- (1) no Default shall have occurred and be continuing or would occur as a result of such Asset Sale;
- (2) the consideration received by the Parent Guarantor or such Restricted Subsidiary, as the case may be, is at least equal to the Fair Market Value of the assets sold or disposed of; and
- (3) at least 75% of the consideration received consists of cash, Temporary Cash Investments or Replacement Assets (as defined below); provided that in the case of an Asset Sale in which the Parent Guarantor or such Restricted Subsidiary receives Replacement Assets involving aggregate consideration in excess of US\$15.0 million (or the Dollar Equivalent thereof), the Parent Guarantor shall deliver to the Trustee an opinion as to the fairness to the Parent Guarantor or such Restricted Subsidiary of such Asset Sale from a financial point of view issued by an accounting, appraisal or investment banking firm of recognized international standing. For purposes of this provision, each of the following will be deemed to be cash:

- (a) any liabilities, as shown on the Parent Guarantor's most recent consolidated balance sheet, of the Parent Guarantor or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes, the Parent Guarantee or any Subsidiary Guarantee) that are assumed by the transferee of any such assets pursuant to a customary assumption, assignment, novation or similar agreement that releases the Parent Guarantor or such Restricted Subsidiary, as the case may be, from further liability; and
- (b) any securities, notes or other obligations received by the Parent Guarantor or any Restricted Subsidiary from such transferee that are promptly, but in any event within 30 days of closing, converted by the Parent Guarantor or such Restricted Subsidiary, as the case may be, into cash, to the extent of the cash received in that conversion.

The Trustee shall be entitled to accept, without further enquiry and without liability to the Holders, such opinion as mentioned in this clause (3) as conclusive evidence of the matters stated therein.

Within 360 days after the receipt of any Net Cash Proceeds from an Asset Sale, the Parent Guarantor or any Restricted Subsidiary may apply such Net Cash Proceeds to:

- (1) permanently repay unsubordinated Indebtedness of the Parent Guarantor or any Restricted Subsidiary (and, if such unsubordinated Indebtedness repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto) in each case owing to a Person other than the Parent Guarantor or a Restricted Subsidiary; or
- (2) acquire properties and assets (other than current assets), including any shares of Capital Stock in a Person holding such properties or assets that is primarily engaged in a Permitted Business, that will be used in the Permitted Businesses ("**Replacement Assets**");

*provided* that, pending the application of Net Cash Proceeds in accordance with clauses (1) or (2) of this paragraph, such Net Cash Proceeds may be temporarily invested only in cash or Temporary Cash Investments.

Any Net Cash Proceeds from Asset Sales that are not applied or invested as provided in clauses (1) and (2) in the immediately preceding paragraph will constitute "**Excess Proceeds**." Excess Proceeds of less than US\$10.0 million (or the Dollar Equivalent thereof) will be carried forward and accumulated. When accumulated Excess Proceeds exceed US\$10.0 million (or the Dollar Equivalent thereof), within 10 days thereof, the Issuer or the Parent Guarantor must make an Offer to Purchase for Notes having a principal amount equal to:

- (1) accumulated Excess Proceeds, multiplied by
- (2) a fraction (x) the numerator of which is equal to the outstanding principal amount of the Notes and (y) the denominator of which is equal to the outstanding principal amount of the Notes and all *pari passu* Indebtedness similarly required to be repaid, redeemed or tendered for in connection with the Asset Sale, rounded down to the nearest US\$1,000.

The offer price in any Offer to Purchase will be equal to 100% of the principal amount plus accrued and unpaid interest (including any Additional Amount) to the date of purchase, and will be payable in cash.

If any Excess Proceeds remain after consummation of an Offer to Purchase, the Parent Guarantor or any Restricted Subsidiary may use those Excess Proceeds for any purpose not otherwise prohibited by the Indenture. If the aggregate principal amount of Notes (and any other *pari passu* Indebtedness) tendered in (or required to be prepaid or redeemed in connection with) such Offer to Purchase exceeds the amount of Excess Proceeds, the Trustee will select the Notes (and any other *pari passu* Indebtedness) to be purchased on a *pro rata* basis based on the principal amount of the Notes and such other *pari passu* Indebtedness tendered. Upon completion of each Offer to Purchase, the amount of Excess Proceeds will be reset at zero.

#### **Limitation on the Parent Guarantor's business activities**

The Parent Guarantor will not, and will not permit any Restricted Subsidiary to, directly or indirectly, engage in any business other than a Permitted Business; provided, however, that the Parent Guarantor or any Restricted Subsidiary may own Capital Stock of an Unrestricted Subsidiary or joint venture or other entity that is engaged in a business other than Permitted Businesses as long as any Investment therein was not prohibited when made by the covenant under the caption "— Certain Covenants — Limitation on Investment."

### **Limitation on the Issuer**

The Issuer will at all times remain a directly or indirectly Wholly Owned Restricted Subsidiary of the Parent Guarantor. The Issuer will not issue any Capital Stock other than the issuance of its ordinary shares to the Parent Guarantor or a Wholly Owned Restricted Subsidiary. For so long as any Notes are outstanding, the Issuer will not, and the Parent Guarantor will procure that none of the Restricted Subsidiaries will, commence or take any action to cause a winding-up or liquidation of the Issuer.

### **Use of proceeds**

The Issuer will not, and the Parent Guarantor will not permit any Restricted Subsidiary to, use the net proceeds from the sale of the Notes issued and sold on the Original Issue Date, in any amount, for any purpose other than (1) as specified under "Use of Proceeds" in this offering memorandum and (2) pending the application of all of such net proceeds in such manner, to invest the portion of such net proceeds not yet so applied in cash or Temporary Cash Investments.

### **Designation of Restricted and Unrestricted Subsidiaries**

The Board of Directors may designate any Restricted Subsidiary (other than the Issuer) to be an Unrestricted Subsidiary; *provided* that (1) no Default shall have occurred and be continuing at the time of or after giving effect to such designation; (2) such Restricted Subsidiary does not own any Disqualified Stock of the Issuer, the Parent Guarantor or any Subsidiary Guarantor or Disqualified or Preferred Stock of a Restricted Subsidiary that is not the Issuer or a Subsidiary Guarantor or hold any Indebtedness of, or any Lien on any property of, the Parent Guarantor or any Restricted Subsidiary, if such Disqualified or Preferred Stock or Indebtedness could not be Incurred under the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock" or such Lien would violate the covenant described under "— Certain Covenants — Limitation on Liens;" (3) such Restricted Subsidiary does not own any Voting Stock of another Restricted Subsidiary, and all of its Subsidiaries are Unrestricted Subsidiaries or are being concurrently designated to be Unrestricted Subsidiaries in accordance with this paragraph; (4) such Restricted Subsidiary has no outstanding Indebtedness that could trigger a cross-default to the Indebtedness of the Parent Guarantor or any other Restricted Subsidiary and none of the Parent Guarantor or any Restricted Subsidiary provides credit support for the Indebtedness of such Restricted Subsidiary; and (5) the Investment deemed to have been made thereby in such newly designated Unrestricted Subsidiary and each other newly designated Unrestricted Subsidiary being concurrently redesignated would be permitted to be made by the covenant described under "— Certain Covenants — Limitation on Investment."

The Board of Directors may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that (1) no Default shall have occurred and be continuing at the time of or after giving effect to such designation; (2) any Indebtedness of such Unrestricted Subsidiary outstanding at the time of such designation which will be deemed to have been Incurred by such newly designated Restricted Subsidiary as a result of such designation would be permitted to be Incurred by the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;" (3) any Lien on the property of such Unrestricted Subsidiary at the time of such designation which will be deemed to have been incurred by such newly designated Restricted Subsidiary as a result of such designation would be permitted to be incurred by the covenant described under "— Certain Covenants — Limitation on Liens;" (4) such Unrestricted Subsidiary is not a Subsidiary of another Unrestricted Subsidiary (that is not concurrently being designated as a Restricted Subsidiary); and (5) if such Restricted Subsidiary is not a Non-Guarantor Subsidiary, such Restricted Subsidiary will upon such designation execute and deliver to the Trustee a supplemental indenture to the Indenture by which such Restricted Subsidiary will become a Subsidiary Guarantor.

### **Government approvals and licenses; Compliance with law**

The Parent Guarantor will, and will cause each Restricted Subsidiary to, (1) obtain and maintain in full force and effect all governmental approvals, authorizations, consents, permits, concessions and licenses as are necessary to engage in the Permitted Businesses; (2) preserve and maintain good and valid title to its properties and assets (including land-use rights) free and clear of any Liens other than Permitted Liens; and (3) comply with all laws, regulations, orders, judgments and decrees of any governmental body, except to the extent that failure so to obtain, maintain, preserve and comply with would not reasonably be expected to have a material adverse effect on (a) the business, condition (financial or otherwise), results of operations or prospects of the Parent Guarantor and its Restricted Subsidiaries, taken as a whole, or (b) the ability of the Issuer, the Parent Guarantor or any Subsidiary Guarantor to perform its obligations under the Notes, the Indenture, the Parent Guarantee or the Subsidiary Guarantee.

The Parent Guarantor shall file or cause to be filed with the NDRC the requisite information and documents within the prescribed time in accordance with the Circular on Promoting the Reform of the Administrative System on the Issuance by Enterprises of Foreign Debt Filings and Registrations (國家發展改革委關於推進企業發行外債備案登記制管理改革的通知 (發改外資 [2015] 2044 號)) issued by the NDRC and which came into effect on September 14, 2015, and any implementation rules as issued by the NDRC from time to time (the "**NDRC Post-issue Filing**").

The Parent Guarantor shall within 20 days after submission of such NDRC Post-issue Filing provide the Trustee with an Officer's Certificate substantially in a form set forth in the Indenture attaching a copy of the relevant evidence of due filing with the NDRC (to the extent available) and certifying that such copy is true and correct.

The Trustee shall have no obligation or duty to monitor or ensure or to assist with the NDRC Post-issue Filing or to verify the accuracy, validity and/or genuineness of any documents in relation to or in connection with the NDRC Post-issue Filing or to give notice to the Bondholders confirming the completion of the NDRC Post-issue Filing, and shall not be liable to Bondholders or any other person for not doing so.

### **Anti-layering**

The Issuer will not Incur and the Parent Guarantor will not incur, and will not permit any Subsidiary Guarantor to Incur, any Indebtedness if such Indebtedness is contractually subordinated in right of payment to any other Indebtedness of the Issuer, the Parent Guarantor or such Subsidiary Guarantor, as the case may be, unless such Indebtedness is also contractually subordinated in right of payment to the Notes, the Parent Guarantee and such Subsidiary Guarantee on substantially identical terms; *provided* that this requirement does not apply to distinctions between categories of Indebtedness that exist by reason of any Liens or Guarantees securing or in favor of some but not all of such Indebtedness.

### **SUSPENSION OF CERTAIN COVENANTS**

If on any date following the date of the Indenture, the Notes have a rating of Investment Grade from two out of three Rating Agencies and no Default has occurred and is continuing (a "**Suspension Event**"), then, beginning on that day and continuing until such time, if any, at which the Notes cease to have a rating of Investment Grade from two out of three of the Rating Agencies, the provisions of the Indenture summarized under the following captions will be suspended:

- (1) "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;"
- (2) "— Certain Covenants — Limitation on Investment;"
- (3) "— Certain Covenants — Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries;"
- (4) "— Certain Covenants — Limitation on Sales and Issuances of Capital Stock in Restricted Subsidiaries;"
- (5) "— Certain Covenants — Limitation on Issuances of Guarantees by Restricted Subsidiaries;"
- (6) "— Certain Covenants — Limitation on Sale and Leaseback Transactions;"
- (7) "— Certain Covenants — Limitation on Asset Sales;" and
- (8) "— Certain Covenants — Limitation on the Parent Guarantor's Business Activities."

During any period that the foregoing covenants have been suspended, the Board of Directors may not designate any of the Restricted Subsidiaries as Unrestricted Subsidiaries pursuant to the covenant summarized under "— Certain Covenants — Designation of Restricted and Unrestricted Subsidiaries" or the definition of "Unrestricted Subsidiary."

Such covenants will be reinstituted and apply according to their terms as of and from the first day on which a Suspension Event ceases to be in effect. Such covenants will not, however, be of any effect with regard to actions of the Parent Guarantor or any Restricted Subsidiary properly taken in compliance with the provisions of the Indenture during the continuance of the Suspension Event, and following reinstatement the calculations under the covenant summarized under "— Certain Covenants — Limitation on Investment" will be made as if such covenant

had been in effect since the date of the Indenture except that no Default will be deemed to have occurred solely by reason of an Investment made while that covenant was suspended.

There can be no assurance that the Notes will ever achieve a rating of Investment Grade or that any such rating will be maintained.

## **PROVISION OF FINANCIAL STATEMENTS AND REPORTS**

So long as any of the Notes remain outstanding, the Parent Guarantor will file with the Trustee and furnish to the Holders upon request, as soon as they are available, but in any event not more than ten Business Days after they are filed with the stock exchange on which the Common Stock of the Parent Guarantor is listed for trading, true and correct copies of any financial reports filed with such exchange. If such financial reports are not in English, a certified English translation of such reports will be provided as soon as they are available, but in any event within 20 calendar days after they are filed with the stock exchange on which the Common Stock of the Parent Guarantor is listed for trading.

If at any time the Common Stock of the Parent Guarantor ceases to be listed for trading on a stock exchange, the Parent Guarantor will file with the Trustee and furnish to the Holders upon request,

- (a) as soon as they are available, but in any event within 140 calendar days after the end of the fiscal year of the Parent Guarantor, copies of the financial statements (on a consolidated basis and in the English language) of the Parent Guarantor in respect of such financial year (including a statement of income, balance sheet and cash flow statement) prepared in accordance with GAAP and audited by a member firm of an internationally recognized firm of independent accountants;
- (b) as soon as they are available, but in any event within 80 calendar days after the end of the second financial quarter of the Parent Guarantor, copies of the financial statements (on a consolidated basis and in the English language) of the Parent Guarantor in respect of such half-year period (including a statement of income, balance sheet and cash flow statement) prepared in accordance with GAAP and reviewed by a member firm of an internationally recognized firm of independent accountants; and
- (c) as soon as they are available, but in any event within 45 calendar days after the end of each of the first and third financial quarters of the Parent Guarantor, copies of the unaudited financial statements (on a consolidated basis and in the English language) of the Parent Guarantor, including a statement of income, balance sheet and cash flow statement, prepared on a basis consistent with the audited financial statements of the Parent Guarantor, together with a certificate signed by the person then authorized to sign financial statements on behalf of the Parent Guarantor to the effect that such financial statements are true in all material respects and present fairly the financial position of the Parent Guarantor as at the end of, and the results of its operations for, the relevant quarterly period, other than the fact that such financial statements are without footnotes and do not reflect customary year-end adjustments.

In addition, so long as any Note remains outstanding, the Issuer will provide to the Trustee (a) within 140 days after the close of each fiscal year ending after the Original Issue Date, an Officer's Certificate stating the Consolidated Debt to Equity Ratio with respect to the four most recent fiscal quarters and showing in reasonable detail the calculation of the Consolidated Debt to Equity Ratio, including the arithmetic computations of each component of the Consolidated Debt to Equity Ratio, with a certificate from the Parent Guarantor's external auditors verifying the accuracy and correctness of the calculation and arithmetic computation; *provided that* the Parent Guarantor shall not be required to provide such auditor certification if its external auditors refuse to provide such certification as a result of a policy of such external auditors not to provide such certification; and (b) as soon as possible and in any event within 30 days after the Parent Guarantor becomes aware or should reasonably become aware of the occurrence of a Default and/or an Event of Default, an Officer's Certificate setting forth the details of the Default and/or an Event of Default, and the action which the Issuer proposes to take with respect thereto.

## **RATING MAINTENANCE**

So long as any of the Notes remain outstanding, the Issuer shall use its all reasonable endeavors to maintain a rating on the Notes by any Rating Agency.

## **EVENTS OF DEFAULT**

The following events will be defined as "Events of Default" in the Indenture:

- (1) default in the payment of principal of (or premium, if any, on) the Notes when the same becomes due and payable at maturity, upon acceleration, redemption or otherwise;
- (2) default in the payment of interest on any Note when the same becomes due and payable, and such default continues for a period of 30 consecutive days;
- (3) (a) default in the performance or breach of the provisions of the covenants described under "— Consolidation, Merger and Sale of Assets," or (b) the failure by the Issuer or the Parent Guarantor to make or consummate an Offer to Purchase in the manner described under the captions "— Repurchase of Notes upon a Change of Control Triggering Event," "— Repurchase of Notes upon a SAFE Non-compliance Event," or "— Limitation on Asset Sales;"
- (4) the Parent Guarantor or any Restricted Subsidiary defaults in the performance of or breaches any other covenant or agreement in the Indenture or under the Notes (other than a default specified in clause (1), (2) or (3) above) and such default or breach continues for a period of 30 consecutive days after written notice by the Trustee or the Holders of 25% or more in aggregate principal amount of the Notes then outstanding;
- (5) there occurs with respect to any Indebtedness of the Parent Guarantor or any Restricted Subsidiary having an outstanding principal amount of US\$20.0 million (or the Dollar Equivalent thereof) or more in the aggregate for all such Indebtedness of all such Persons, whether such Indebtedness now exists or shall hereafter be created, (a) an event of default that has caused the holder thereof to declare such Indebtedness to be due and payable prior to its Stated Maturity and/or (b) the failure to make a principal payment when due;
- (6) one or more final judgments or orders for the payment of money are rendered against the Parent Guarantor or any of its Restricted Subsidiaries and are not paid or discharged, and there is a period of 60 consecutive days following entry of the final judgment or order that causes the aggregate amount for all such final judgments or orders outstanding and not paid or discharged against all such Persons to exceed US\$20.0 million (or the Dollar Equivalent thereof) (in excess of amounts which the Parent Guarantor's insurance carriers have agreed to pay under applicable policies) during which a stay of enforcement, by reason of a pending appeal or otherwise, is not in effect;
- (7) an involuntary case or other proceeding is commenced against the Parent Guarantor or any Significant Restricted Subsidiary with respect to it or its debts under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect seeking the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Parent Guarantor or any Significant Restricted Subsidiary or for any substantial part of the property and assets of the Parent Guarantor or any Significant Restricted Subsidiary and such involuntary case or other proceeding remains undismissed and unstayed for a period of 45 consecutive days; or an order for relief is entered against the Parent Guarantor or any Significant Restricted Subsidiary under any applicable bankruptcy, insolvency or other similar law as now or hereafter in effect;
- (8) the Parent Guarantor or any Significant Restricted Subsidiary (a) commences a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consents to the entry of an order for relief in an involuntary case under any such law, (b) consents to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Parent Guarantor or any Significant Restricted Subsidiary or for all or substantially all of the property and assets of the Parent Guarantor or any Significant Restricted Subsidiary or (c) effects any general assignment for the benefit of creditors; or
- (9) any Subsidiary Guarantor denies or disaffirms its obligations under its Subsidiary Guarantee, except as permitted by the Indenture, any Subsidiary Guarantee is determined to be unenforceable or invalid or shall for any reason cease to be in full force and effect.

If an Event of Default (other than an Event of Default specified in clause (7) or (8) above) occurs and is continuing under the Indenture, the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding, by written notice to the Issuer and the Parent Guarantor (and to the Trustee if such notice is given by the Holders), may, and the Trustee at the request of such Holders shall (subject to being indemnified and/or secured and/or prefunded to its satisfaction), declare the principal of, premium, if any, and accrued and unpaid interest on the Notes to be immediately due and payable. Upon a declaration of acceleration, such principal of,

premium, if any, and accrued and unpaid interest shall be immediately due and payable. If an Event of Default specified in clause (7) or (8) above occurs with respect to the Parent Guarantor or any Restricted Subsidiary, the principal of, premium, if any, and accrued and unpaid interest on the Notes then outstanding shall automatically become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

The Holders of at least a majority in principal amount of the outstanding Notes by written notice to the Issuer and the Parent Guarantor and to the Trustee may on behalf of the Holders of Notes waive all past defaults and rescind and annul a declaration of acceleration and its consequences if:

- (1) all existing Events of Default, other than the nonpayment of the principal of, premium, if any, and interest on the Notes that have become due solely by such declaration of acceleration, have been cured or waived, and
- (2) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction. Upon such waiver, the Default will cease to exist, and any Event of Default arising therefrom will be deemed to have been cured, but no such waiver will extend to any subsequent or other Default or impair any right consequent thereon.

If an Event of Default occurs and is continuing, the Trustee may, and shall (subject to receiving indemnity and/or security and/or prefunding to its satisfaction) upon request of Holders of at least 25% in aggregate principal amount of outstanding Notes, pursue in its own name or as trustee of an express trust, any available remedy by proceeding at law or in equity to collect the payment of principal of and interest on the Notes or to enforce the performance of any provision of the Notes or the Indenture. The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding.

The Holders of at least a majority in aggregate principal amount of the outstanding Notes 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. However, the Trustee may refuse to follow any direction that is unclear, conflicting, equivocal or conflicts with law or the Indenture, that may involve the Trustee in personal liability, or that the Trustee determines may be unduly prejudicial to the rights of Holders not joining in the giving of such direction and may take any other action it deems proper that is not inconsistent with any such direction received from Holders. In addition, the Trustee will not be required to expend its own funds in following such direction if it does not believe that reimbursement or satisfactory indemnification and/or security and/or prefunding is assured to it.

A Holder of Notes may not institute any proceeding, judicial or otherwise, with respect to the Indenture or the Notes, or for the appointment of a receiver or trustee, or for any other remedy under the Indenture or the Notes, unless:

- (1) the Holder has previously given the Trustee written notice of a continuing Event of Default;
- (2) the Holders of at least 25% in aggregate principal amount of outstanding Notes make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer the Trustee indemnity and/or security and/or prefunding satisfactory to the Trustee against any costs, liability or expense to be incurred in compliance with such request;
- (4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of indemnity and/or security and/or prefunding; and
- (5) during such 60-day period, the Holders of a majority in aggregate principal amount of the outstanding Notes do not give the Trustee a written direction that is inconsistent with the request.

However, such limitations do not apply to the right of any Holder to receive payment of the principal of, premium, if any, or interest on, such Note, or to bring suit for the enforcement of any such payment, on or after the due date expressed in the Notes, which right shall not be impaired or affected without the consent of the Holder.

Officers of the Parent Guarantor must certify to the Trustee in writing, on or before a date not more than 140 calendar days after the end of each fiscal year of the Parent Guarantor, that a review has been conducted of the activities of the Parent Guarantor and its Restricted Subsidiaries and the Parent Guarantor's and its Restricted Subsidiaries' performance under the Indenture and that the Parent Guarantor and its Restricted Subsidiaries have

fulfilled all obligations thereunder, or, if there has been a default in the fulfillment of any such obligation, specifying each such default and the nature and status thereof. The Parent Guarantor will also be obligated to notify the Trustee in writing of any default or defaults in the performance of any covenants or agreements under the Indenture. See "— Provision of Financial Statements and Reports."

None of the Trustee or any Agent is obligated to do anything to ascertain whether any Event of Default or Default has occurred or is continuing and will not be responsible to Holders or any other person for any loss arising from any failure by it to do so, and each of the Trustee and the Agents may assume that no such event has occurred and that the Issuer, the Parent Guarantor, and if any, the Subsidiary Guarantors are performing all of their respective obligations under the Indenture, the Notes, the Parent Guarantor and such Subsidiary Guarantees unless a Responsible Officer of the Trustee, as the case may be, the Agent has received written notice of the occurrence of such event or facts establishing that a Default or an Event of Default has occurred or that the Issuer, the Parent Guarantor or any Subsidiary Guarantor, as the case may be, is not performing any its obligations under the Indenture, the Notes, the Parent Guarantee or, if any, the Subsidiary Guarantees, as the case may be.

## **CONSOLIDATION, MERGER AND SALE OF ASSETS**

The Issuer will not consolidate with, merge with or into another Person, permit any Person to merge with or into it, or sell, convey, transfer, lease or otherwise dispose of all or substantially all of the properties and assets of the Issuer and the Restricted Subsidiaries (computed on a consolidated basis) (as an entirety or substantially an entirety in one transaction or a series of related transactions) unless each of the following conditions is satisfied:

- (1) the Issuer shall be the continuing Person, or the Person (if other than it) formed by such consolidation or merger, or with or into which the Issuer consolidated or merged, or that acquired or leased such property and assets (the "Issuer Surviving Person") shall be a corporation organized and validly existing under the laws of the PRC and shall expressly assume, by a supplemental indenture to the Indenture, executed and delivered to the Trustee, all the obligations of the Issuer under the Indenture and the Notes, including the obligation to pay Additional Amounts with respect to any jurisdiction in which it is organized or resident for tax purposes or from or through which payment is made, and the Indenture and the Notes shall remain in full force and effect;
- (2) immediately after giving effect to such transaction, no Default shall have occurred and be continuing;
- (3) immediately after giving effect to such transaction on a pro forma basis, the Parent Guarantor or the Issuer Surviving Person, as the case may be, shall have a Consolidated Net Worth equal to or greater than the Consolidated Net Worth of the Parent Guarantor immediately prior to such transaction;
- (4) immediately after giving effect to such transaction on a pro forma basis, the Parent Guarantor or the Issuer Surviving Person, as the case may be, could Incur at least US\$1.00 of Indebtedness under the proviso of paragraph (1) of the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;"
- (5) the Parent Guarantor shall deliver to the Trustee (x) an Officer's Certificate (attaching the arithmetic computations to demonstrate compliance with clauses (3) and (4)) and (y) an Opinion of Counsel, in each case stating that such consolidation, merger or transfer and the relevant supplemental indenture complies with this provision, that all conditions precedent provided for in the Indenture relating to such transaction have been complied with, and that the registration of the Parent Guarantee described under "— The Parent Guarantee — Registration of the Parent Guarantee" remains valid and effective under PRC law;
- (6) the Parent Guarantor, unless the Parent Guarantor is the Person with which the Issuer has entered into a transaction described under "— Consolidation, Merger and Sale of Assets," shall execute and deliver a supplemental indenture to the Indenture confirming that the Parent Guarantee shall apply to the obligations of the Issuer or the Issuer Surviving Person, as the case may be, in accordance with the Notes and the Indenture;
- (7) each Subsidiary Guarantor, unless such Subsidiary Guarantor is the Person with which the Issuer has entered into a transaction described under "— Consolidation, Merger and Sale of Assets," shall execute and deliver a supplemental indenture to the Indenture confirming that its Subsidiary Guarantee shall apply to the obligations of the Issuer or the Issuer Surviving Person, as the case may be, in accordance with the Notes and the Indenture; and
- (8) no Rating Decline shall have occurred.

The Parent Guarantor will not consolidate with, merge with or into another Person, permit any Person to merge with or into it, or sell, convey, transfer, lease or otherwise dispose of all or substantially all of the properties and assets of the Parent Guarantor and its Restricted Subsidiaries (computed on a consolidated basis) (as an entirety or substantially an entirety in one transaction or a series of related transactions) unless each of the following conditions is satisfied:

- (1) the Parent Guarantor shall be the continuing Person, or the Person (if other than it) formed by such consolidation or merger, or with or into which the Parent Guarantor consolidated or merged, or that acquired or leased such property and assets (the "Parent Guarantor Surviving Person," together with the Issuer Surviving Person, a "Surviving Person") shall be a corporation organized and validly existing under the laws of the PRC and shall expressly assume, by a supplemental indenture to the Indenture, executed and delivered to the Trustee, all the obligations of the Parent Guarantor under the Indenture and the Parent Guarantee, including the obligation to pay Additional Amounts with respect to any jurisdiction in which it is organized or resident for tax purposes or from or through which payment is made, and the Indenture and the Parent Guarantee shall remain in full force and effect;
- (2) immediately after giving effect to such transaction, no Default shall have occurred and be continuing;
- (3) immediately after giving effect to such transaction on a pro forma basis, the Parent Guarantor shall have a Consolidated Net Worth equal to or greater than the Consolidated Net Worth of the Parent Guarantor immediately prior to such transaction;
- (4) immediately after giving effect to such transaction on a pro forma basis, the Parent Guarantor or the Parent Guarantor Surviving Person could Incur at least US\$1.00 of Indebtedness under the proviso of paragraph (1) of the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;"
- (5) the Parent Guarantor shall deliver to the Trustee (x) an Officer's Certificate (attaching the arithmetic computations to demonstrate compliance with clauses (3) and (4)) and (y) an Opinion of Counsel, in each case stating that such consolidation, merger or transfer and the relevant supplemental indenture complies with this provision, that all conditions precedent provided for in the Indenture relating to such transaction have been complied with, and that the registration of the Parent Guarantee described under "— The Parent Guarantee — Registration of the Parent Guarantee" remains valid and effective under PRC law;
- (6) each Subsidiary Guarantor, unless such Subsidiary Guarantor is the Person with which the Parent Guarantor has entered into a transaction described under "— Consolidation, Merger and Sale of Assets," shall execute and deliver a supplemental indenture to the Indenture confirming that its Subsidiary Guarantee shall apply to the obligations of the Issuer, as the case may be, in accordance with the Notes and the Indenture; and
- (7) no Rating Decline shall have occurred.

No Subsidiary Guarantor will consolidate with, merge with or into another Person, permit any Person to merge with or into it, or sell, convey, transfer, lease or otherwise dispose of all or substantially all of its and its Restricted Subsidiaries' properties and assets (computed on a consolidated basis) (as an entirety or substantially an entirety in one transaction or a series of related transactions) to another Person (other than the Parent Guarantor), unless each of the following conditions is met:

- (1) such Subsidiary Guarantor shall be the continuing Person, or the Person (if other than it) formed by such consolidation or merger, or with or into which such Subsidiary Guarantor consolidated or merged, or that acquired or leased such property and assets shall be the Issuer or the Parent Guarantor concurrently with the transaction in accordance with the Indenture;
- (2) immediately after giving effect to such transaction, no Default shall have occurred and be continuing;
- (3) immediately after giving effect to such transaction on a pro forma basis, the Parent Guarantor shall have a Consolidated Net Worth equal to or greater than the Consolidated Net Worth of the Parent Guarantor immediately prior to such transaction;
- (4) immediately after giving effect to such transaction on a pro forma basis, the Parent Guarantor could Incur at least US\$1.00 of Indebtedness under the proviso of paragraph (1) of the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;"

- (5) the Parent Guarantor shall deliver to the Trustee (x) an Officer's Certificate (attaching the arithmetic computations to demonstrate compliance with clauses (3) and (4)) and (y) an Opinion of Counsel, in each case stating that such consolidation, merger or transfer and the relevant supplemental indenture complies with this provision, and that all conditions precedent provided for in the Indenture relating to such transaction have been complied with; and
- (6) no Rating Decline shall have occurred;

*provided* that this paragraph shall not apply to any sale or other disposition that complies with the "Limitation on Asset Sales" covenant or any Subsidiary Guarantor whose Subsidiary Guarantee is unconditionally released in accordance with the provisions described under "— The Subsidiary Guarantees — Release of the Subsidiary Guarantee."

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 "all or substantially all" of the property or assets of a Person.

The foregoing requirements shall not apply to a consolidation or merger of any Subsidiary Guarantor with and into the Issuer or the Parent Guarantor, or a sale, transfer, conveyance or lease of any properties and assets by such Subsidiary Guarantor to the Issuer or the Parent Guarantor, so long as the Issuer or the Parent Guarantor, as the case may be, survives such consolidation, merger, sale, transfer, conveyance or lease. The foregoing provisions would not necessarily afford Holders protection in the event of highly leveraged or other transactions involving the Issuer, the Parent Guarantor or any Subsidiary Guarantor that may adversely affect Holders.

## **NO PAYMENTS FOR CONSENTS**

The Parent Guarantor will not, and will not permit any of its Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any Holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the Indenture, the Notes, the Parent Guarantee or any Subsidiary Guarantee unless such consideration is offered to be paid or is paid to all Holders that consent, waive or agree to amend such term or provision within the time period set forth in the solicitation documents relating to such consent, waiver or amendment.

Notwithstanding the foregoing, the Issuer shall be permitted, to the fullest extent permitted by applicable laws and regulations, in any offer or payment of consideration for, or as an inducement to, any consent, waiver or amendment of any of the terms or provisions of the Indenture, to exclude or modify the offer or payment to (1) the Holders or beneficial owners of the Notes that are believed by the Issuer to be U.S. persons as defined in Regulation S of the Securities Act and (2) the Holders or beneficial owners in any jurisdiction where (A) the solicitation of such consent, waiver or amendment in the manner deemed appropriate by the Issuer and the payment of consideration therefor would require the Issuer or the Parent Guarantor to (i) file a registration statement, prospectus or similar document or subject the Issuer or the Parent Guarantor to ongoing periodic reporting or similar requirements under any securities laws (including, but not limited to, the United States federal securities laws and the laws of the European Union or its member states), (ii) qualify as a foreign corporation or other entity as a dealer in securities in such jurisdiction if it is not otherwise required to so qualify, (iii) generally consent to service of process in any such jurisdiction or (iv) subject the Issuer or the Parent Guarantor to material taxation in any such jurisdiction if it is not otherwise so subject or (B) such solicitation would otherwise not be permitted under applicable law in such jurisdiction, in each case as determined by the Issuer in its sole discretion and the Trustee shall not have any responsibility or liability for such determination by the Issuer.

## **DEFEASANCE**

### **Defeasance and Discharge**

The Indenture will provide that the Issuer will be deemed to have paid and will be discharged from any and all obligations in respect of the Notes on the 183rd day after the deposit referred to below, and the provisions of the Indenture will no longer be in effect with respect to the Notes (except for, among other matters, certain obligations to register the transfer or exchange of the Notes, to replace stolen, lost or mutilated Notes, to maintain paying agencies, to pay Additional Amounts and to hold monies for payment in trust) if, among other things:

- (1) the Issuer (a) has deposited with the Trustee (or its agent), in trust, money and/or U.S. Government Obligations or any combination thereof that through the payment of interest and principal in respect

thereof in accordance with their terms will provide money in an amount sufficient to pay the principal of, premium, if any, and accrued interest on the Notes on the Stated Maturity for such payments in accordance with the terms of the Indenture and the Notes and (b) delivers to the Trustee an Opinion of Counsel or a certificate of an internationally-recognized firm of independent accountants to the effect that the amount deposited by the Issuer is sufficient to provide payment for the principal of, premium, if any, and accrued interest on, the Notes on the Stated Maturity for such payment in accordance with the terms of the Indenture;

- (2) the Issuer has delivered to the Trustee an Opinion of Counsel from a firm of recognized international standing to the effect that the creation of the defeasance trust does not violate the U.S. Investment Company Act of 1940, as amended, and after the passage of 123 days following the deposit, the trust fund will not be subject to the effect of Section 547 of the United States Bankruptcy Code or Section 15 of the New York Debtor and Creditor Law; and
- (3) immediately after giving effect to such deposit on a *pro forma* basis, no Event of Default, or event that after the giving of notice or lapse of time or both would become an Event of Default, shall have occurred and be continuing on the date of such deposit or during the period ending on the 183rd day after the date of such deposit, and such defeasance shall not result in a breach or violation of, or constitute a default under, any other agreement or instrument to which the Parent Guarantor or any of its Restricted Subsidiaries is a party or by which the Parent Guarantor or any of its Restricted Subsidiaries is bound.

In the case of either discharge or defeasance of the Notes, the Parent Guarantee and any Subsidiary Guarantee will terminate.

#### **Defeasance of Certain Covenants**

The Indenture will provide that (i) the provisions of the Indenture will no longer be in effect with respect to clauses (3), (4) and (5)(x) under the first paragraph and clauses (3), (4) and (5)(x) under the second paragraph under "— Consolidation, Merger and Sale of Assets" and all the covenants described herein under "— Certain Covenants," other than as described under "— Certain Covenants — Government Approvals and Licenses; Compliance with Law" and "— Certain Covenants Anti-Layering," and (ii) clause (3) under "Events of Default" with respect to clauses (3), (4) and (5)(x) under the first paragraph and clauses (3), (4) and (5)(x) under the second paragraph under "Consolidation, Merger and Sale of Assets" and with respect to the other events set forth in the above clause (i), clause (4) under "Events of Default" with respect to such other covenants and clauses (5) and (6) under "Events of Default" shall be deemed not to be Events of Default upon, among other things, the deposit with the Trustee, in trust, of money, U.S. Government Obligations or a combination thereof that through the payment of interest and principal in respect thereof in accordance with their terms will provide money in an amount sufficient to pay the principal of, premium, if any, and accrued interest on the Notes on the Stated Maturity of such payments in accordance with the terms of the Indenture and the Notes, the satisfaction of the provisions described in clause (2) of the preceding paragraph.

#### **Defeasance and Certain Other Events of Default**

In the event that the Issuer exercises its option to omit compliance with certain covenants and provisions of the Indenture as described in the immediately preceding paragraph and the Notes are declared due and payable because of the occurrence of an Event of Default that remains applicable, the amount of money and/or U.S. Government Obligations on deposit with the Trustee will be sufficient to pay amounts due on the Notes at the time of their Stated Maturity but may not be sufficient to pay amounts due on the Notes at the time of the acceleration resulting from such Event of Default. However, the Issuer will remain liable for such payments.

#### **AMENDMENTS AND WAIVER**

##### **Amendments Without Consent of Holders**

The Indenture, the Notes, the Parent Guarantee and any Subsidiary Guarantee may be amended, without the consent of any Holder:

- (1) to cure any ambiguity, defect, omission or inconsistency in the Indenture, the Notes, the Parent Guarantee or, if any, the Subsidiary Guarantees;
- (2) to comply with the provisions described under "— Consolidation, Merger and Sale of Assets;"

- (3) to evidence and provide for the acceptance of appointment by a successor Trustee;
- (4) to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture;
- (5) to effect any change to the Indenture in a manner necessary to comply with the procedures of Euroclear or Clearstream;
- (6) in any other case where a supplemental indenture to the Indenture is required or permitted to be entered into pursuant to the provisions of the Indenture without the consent of any Holder;
- (7) to add any Subsidiary Guarantor or any Subsidiary Guarantee or release any Subsidiary Guarantor from any Subsidiary Guarantee as provided or permitted by the terms of the Indenture;
- (8) to conform the text of the Indenture, the Notes, the Parent Guarantee or any Subsidiary Guarantee to any provision of this "Description of the Notes" to the extent that such provision in this "Description of the Notes" was intended to be a verbatim recitation of a provision of the Indenture, the Notes, the Parent Guarantee or such Subsidiary Guarantee;
- (9) to provide any collateral to secure the Notes, the Parent Guarantee and/or any Subsidiary Guarantee or to enter into any security document, intercreditor agreement or amendments or supplements thereto; or
- (10) to make any other change that does not materially and adversely affect the rights of any Holder.

#### **Amendments with Consent of Holders**

Amendments of the Indenture, the Notes, the Parent Guarantee and any Subsidiary Guarantee may be made by the Issuer, the Parent Guarantor, the Subsidiary Guarantor and the Trustee with the consent of the Holders of not less than a majority in aggregate principal amount of the Notes then outstanding, and the Holders of a majority in aggregate principal amount of the Notes then outstanding may amend or waive future compliance by the Issuer, the Parent Guarantor and, if any, the Subsidiary Guarantors with any provision of the Indenture, the Notes, the Parent Guarantee or, if any, the Subsidiary Guarantees; *provided, however*, that no such modification, amendment or waiver may, without the consent of each Holder affected thereby:

- (1) change the Stated Maturity of the principal of, or any installment of interest on, any Note;
- (2) reduce the principal amount of, or premium, if any, or interest on, any Note;
- (3) change the place, currency or time of payment of principal of, or premium, if any, or interest on, any Note;
- (4) impair the right to institute suit for the enforcement of any payment on or after the Stated Maturity (or, in the case of a redemption, on or after the redemption date) of any Note, the Parent Guarantee and, if any, the Subsidiary Guarantees, if any;
- (5) reduce the above-stated percentage of outstanding Notes the consent of whose Holders is necessary to modify or amend the Indenture;
- (6) waive a default in the payment of principal of, premium, if any, or interest on the Notes;
- (7) reduce the percentage or aggregate principal amount of outstanding Notes the consent of whose Holders is necessary for waiver of compliance with certain provisions of the Indenture or for waiver of certain defaults;
- (8) release the Parent Guarantor or any Subsidiary Guarantor from the Parent Guarantee or such Subsidiary Guarantee, except as provided in the Indenture;
- (9) amend, change or modify the Parent Guarantee or any Subsidiary Guarantee in a manner that adversely affects the Holders;
- (10) reduce the amount payable upon a Change of Control Offer, a SAFE Non-compliance Offer or an Offer to Purchase with the Excess Proceeds from any Asset Sale or, change the time or manner by which a Change of Control Offer or an Offer to Purchase with the Excess Proceeds or other proceeds from any

Asset Sale may be made or by which the Notes must be repurchased pursuant to a Change of Control Offer, a SAFE Non-compliance Offer or an Offer to Purchase with the Excess Proceeds or other proceeds from any Asset Sale, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise, unless such amendment, waiver or modification shall be in effect prior to the occurrence of a Change of Control or a SAFE Non-compliance Event or the event giving rise to the repurchase of the Notes under "— Certain Covenants — Limitation on Asset Sales;"

- (11) change the redemption date or the redemption price of the Notes from that stated under the caption "— Redemption for Taxation Reasons;"
- (12) amend, change or modify the obligation of the Issuer, the Parent Guarantor or any Subsidiary Guarantor to pay Additional Amounts; or
- (13) amend, change or modify any provision of the Indenture or the related definition affecting the ranking of the Notes, the Parent Guarantee or any Subsidiary Guarantee in a manner which adversely affects the Holders.

#### **UNCLAIMED MONEY**

Claims against the Issuer, the Parent Guarantor or any Subsidiary Guarantor for the payment of principal of, premium, if any, or interest, on the Notes, the Parent Guarantee or, if any, the Subsidiary Guarantees will become void unless presentation for payment is made as required in the Indenture within a period of six years.

#### **NO PERSONAL LIABILITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS, DIRECTORS OR EMPLOYEES**

No recourse for the payment of the principal of, premium, if any, or interest on any of the Notes or for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Issuer, the Parent Guarantor or any Subsidiary Guarantor in the Indenture, or in any of the Notes, the Parent Guarantee or, if any, the Subsidiary Guarantees or because of the creation of any Indebtedness represented thereby, shall be had against any incorporator, stockholder, officer, director, employee or controlling person of the Issuer, the Parent Guarantor or such Subsidiary Guarantor or of any successor Person thereof. Each Holder, by accepting the Notes, waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes, the Parent Guarantee and any Subsidiary Guarantee. Such waiver may not be effective to waive liabilities under the federal securities laws.

#### **CONCERNING THE TRUSTEE AND THE AGENTS**

The Bank of New York Mellon, London Branch, a banking corporation organized and existing under the laws of the State of New York with limited liability and operating through its branch in London at One Canada Square, London E14 5AL, United Kingdom, has been appointed as Trustee under the Indenture and as principal paying agent (the "**Principal Paying Agent**") and The Bank of New York Mellon SA/NV, Dublin Branch, a limited liability company and credit institution organised under the laws of Belgium, registered in the RPM Brussels with company number 0806.743.159, whose registered office is at 46 Rue Montoyerstraat, B-1000 Brussels, Belgium, acting through its Dublin branch at Riverside II, Sir John Rogerson's Quay, Grand Canal Dock, Dublin 2, D02 KV60, has been appointed as registrar (the "**Registrar**") and transfer agent (the "**Transfer Agent**," together with the Principal Paying Agent and the Registrar, the "**Agents**") with regard to the Notes under the Indenture. Except during the continuance of a Default, the Trustee undertakes to perform such duties and only such duties as are specifically set forth in the Indenture or the Notes, and no implied covenant or obligation shall be read into the Indenture or the Notes against the Trustee. If an Event of Default has occurred and is continuing, the Trustee will use the same degree of care and skill in its exercise of the rights and powers vested in it under the Indenture or the Notes as a prudent person would exercise under the circumstances in the conduct of such person's own affairs.

Pursuant to the terms of the Indenture and the Notes, the Issuer, the Parent Guarantor and, if any, the Subsidiary Guarantors will reimburse the Trustee and the Agents for all fees and properly incurred expenses.

The Trustee may refuse to follow any direction that conflicts with law or the Indenture, that may involve the Trustee in personal liability, or that may be unduly prejudicial to the rights of Holders not joining in the giving of such direction and may take any other action it deems proper that is not inconsistent with any such direction received from Holders.

The Indenture contains limitations on the rights of the Trustee, should it become a creditor of the Issuer, the Parent Guarantor or any Subsidiary Guarantor, to obtain payment of claims in certain cases or to realize on certain property received by it in respect of any such claims, as security or otherwise. The Trustee is permitted to engage in other transactions with the Parent Guarantor and its Affiliates; *provided*, however, that if it becomes aware it has acquired any conflicting interest, it must eliminate such conflict or resign.

The Trustee will not be under any obligation to exercise any rights or powers conferred under the Indenture for the benefit of the Holders (including, without limitation, making any determination as to any matter) unless such Holders have instructed the Trustee in writing and offered to the Trustee indemnity and/or security and/or prefunding satisfactory to the Trustee against any loss, liability or expense. Furthermore, each Holder, by accepting the Notes will agree, for the benefit of the Trustee, that it is solely responsible for its own independent appraisal of, and investigation into, all risks arising under or in connection with the Indenture and has not relied on and will not at any time rely on the Trustee in respect of such risks.

## **BOOK-ENTRY; DELIVERY AND FORM**

The Notes will be represented by one or more global notes in registered form without coupons attached (the "**Global Note**"). On the Original Issue Date, an initial Global Note will be deposited with a common depositary and registered in the name of the common depositary or its nominee for the accounts of Euroclear and Clearstream. Any additional Notes will be represented by additional Global Notes in registered form without coupons attached.

### **Global Note**

Ownership of beneficial interests in the Global Note (the "**book-entry interests**") will be limited to persons that have accounts with Euroclear and/or Clearstream or persons that may hold interests through such participants. Book-entry interests will be shown on, and transfers thereof will be effected only through, records maintained in book-entry form by Euroclear and Clearstream and their participants.

Except as set forth below under "— Book-Entry; Delivery and Form — Individual Definitive Note," the book-entry interests will not be held in definitive form. Instead, Euroclear and/or Clearstream will credit on their respective book-entry registration and transfer systems a participant's account with the interest beneficially owned by such participant. The laws of some jurisdictions may require that certain purchasers of securities take physical delivery of such securities in definitive form. The foregoing limitations may impair the ability to own, transfer or pledge book-entry interests.

So long as the Notes are held in global form, the common depositary for Euroclear and/or Clearstream (or its nominee) will be considered the sole holder of the Global Note for all purposes under the Indenture and "holders" of book-entry interests will not be considered the owners or "Holders" of Notes for any purpose. As such, participants must rely on the procedures of Euroclear and Clearstream and indirect participants must rely on the procedures of the participants through which they own book-entry interests in order to transfer their interests in the Notes or to exercise any rights of Holders under the Indenture.

None of the Issuer, the Parent Guarantor, any Subsidiary Guarantor, the Trustee or any of their respective agents will have any responsibility or be liable for any aspect of the records relating to the book-entry interests. The Notes are not issuable in bearer form.

### **Payments on the Global Note**

Payments of any amounts owing in respect of the Global Note (including principal, premium, interest and Additional Amounts) will be made to the Principal Paying Agent in U.S. dollars. The Principal Paying Agent will, in turn, make such payments to the common depositary for Euroclear and Clearstream, which will distribute such payments to participants in accordance with their procedures. Each of the Issuer, the Parent Guarantor and, if any, the Subsidiary Guarantors will make payments of all such amounts without deduction or withholding for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature, except as may be required by law and as described under "— Additional Amounts."

Under the terms of the Indenture, the Issuer, Parent Guarantor, the Subsidiary Guarantor (if any), the Agents and the Trustee will treat the registered holder of the Global Note (i.e., the common depositary or its nominee) as the owner thereof for the purpose of receiving payments and for all other purposes. Consequently, none of the Issuer, Parent Guarantor, any Subsidiary Guarantor, the Trustee, the Agents or any of their respective agents has or will have any responsibility or liability for:

- any aspect of the records of Euroclear, Clearstream or any participant or indirect participant relating to or payments made on account of a book-entry interest, for any such payments made by Euroclear, Clearstream or any participant or indirect participants, or for maintaining, supervising or reviewing any of the records of Euroclear, Clearstream or any participant or indirect participant relating to or payments made on account of a book-entry interest; or
- any action or any failure to take any action by Euroclear, Clearstream or any participant or indirect participant.

Payments by participants to owners of book-entry interests held through participants are the responsibility of such participants.

### **Redemption of Global Note**

In the event any Global Note, or any portion thereof, is redeemed, the common depositary will distribute the amount received by it in respect of the Global Note so redeemed to Euroclear and/or Clearstream, as applicable, who will distribute such amount to the holders of the book-entry interests in such Global Note. The redemption price payable in connection with the redemption of such book-entry interests will be equal to the amount received by the common depositary, Euroclear or Clearstream, as applicable, in connection with the redemption of such Global Note (or any portion thereof). The Issuer understands that under existing practices of Euroclear and Clearstream, if fewer than all of the Notes are to be redeemed at any time, Euroclear and Clearstream will credit their respective participants' accounts on a proportionate basis (with adjustments to prevent fractions) or by lot or on such other basis as they deem fair and appropriate; provided, however, that no book-entry interest of US\$200,000 principal amount, or less, as the case may be, will be redeemed in part.

### **Action by Owners of Book-Entry Interests**

Euroclear and Clearstream have advised that they will take any action permitted to be taken by a Holder of Notes only at the direction of one or more participants to whose account the book-entry interests in the Global Note are credited and only in respect of such portion of the aggregate principal amount of Notes as to which such participant or participants has or have given such direction. Euroclear and Clearstream will not exercise any discretion in the granting of consents, waivers or the taking of any other action in respect of the Global Note. If there is an Event of Default under the Indenture, however, each of Euroclear and Clearstream reserves the right to exchange the Global Note for individual definitive notes in certificated form, and to distribute such individual definitive notes to their participants.

### **Transfers**

Transfers between participants in Euroclear and Clearstream will be effected in accordance with Euroclear and Clearstream's rules and will be settled in immediately available funds. If a Holder requires physical delivery of individual definitive notes for any reason, including to sell the Notes to persons in jurisdictions which require physical delivery of such securities or to pledge such securities, such Holder must transfer its interest in the Global Note in accordance with the normal procedures of Euroclear and Clearstream and in accordance with the provisions of the Indenture.

Book-entry interests in the Global Note will be subject to the restrictions on transfer discussed under "Transfer Restrictions" in this offering memorandum.

Any book-entry interest in a Global Note that is transferred to a person who takes delivery in the form of a book-entry interest in another Global Note will, upon transfer, cease to be a book-entry interest in the first-mentioned Global Note and become a book-entry interest in the other Global Note and, accordingly, will thereafter be subject to all transfer restrictions, if any, and other procedures applicable to book-entry interests in such other Global Note for as long as it retains such a book-entry interest.

### **Global Clearance and Settlement Under the Book-Entry System**

Book-entry interests owned through Euroclear or Clearstream accounts will follow the settlement procedures applicable. Book-entry interests will be credited to the securities custody accounts of Euroclear and Clearstream participants on the business day following the settlement date against payment for value on the settlement date.

The book-entry interests will trade through participants of Euroclear or Clearstream, and will settle in same-day funds. Since the purchaser determines the place of delivery, it is important to establish at the time of trading of

any book-entry interests where both the purchaser's and seller's accounts are located to ensure that settlement can be made on the desired value date.

### **Information Concerning Euroclear and Clearstream**

The Issuer understands as follows with respect to Euroclear and Clearstream:

Euroclear and Clearstream hold securities for participating organizations and facilitate the clearance and settlement of securities transactions between their respective participants through electronic book-entry changes in accounts of such participants. Euroclear and Clearstream provide to their participants, among other things, services for safekeeping, administration, clearance and settlement of internationally traded securities and securities lending and borrowing. Euroclear and Clearstream interface with domestic securities markets. Euroclear and Clearstream participants are financial institutions, such as underwriters, securities brokers and dealers, banks, trust companies and certain other organizations. Indirect access to Euroclear or Clearstream is also available to others such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Euroclear or Clearstream participant, either directly or indirectly.

Although the foregoing sets out the procedures of Euroclear and Clearstream in order to facilitate the original issue and subsequent transfers of interests in the Notes among participants of Euroclear and Clearstream, neither Euroclear nor Clearstream is under any obligation to perform or continue to perform such procedures, and such procedures may be discontinued at any time.

None of the Issuer, the Parent Guarantor, the Subsidiary Guarantor (if any), the Trustee or any of their respective agents will have any responsibility for the performance by Euroclear or Clearstream or their respective participants or indirect participants of their respective obligations under the rules and procedures governing their operations, including, without limitation, rules and procedures relating to book-entry interests.

### **Individual Definitive Note**

If (1) the common depositary or any successor to the common depositary is at any time unwilling or unable to continue as a depositary for the reasons described in the Indenture and a successor depositary is not appointed within 90 days, (2) either Euroclear or Clearstream, or a successor clearing system is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention to permanently cease business or does in fact do so, or (3) any of the Notes has become immediately due and payable in accordance with the provisions under the caption "Event of Defaults" and the Issuer has received a written request from a Holder, the Issuer will issue individual definitive notes in registered form in exchange for the Global Note. Upon receipt of such notice from the common depositary or the Trustee, as the case may be, the Issuer will use its best efforts to make arrangements with the common depositary for the exchange of interests in the Global Note for individual definitive notes and cause the requested individual definitive notes to be executed and delivered to the Registrar in sufficient quantities and authenticated by or on behalf of the Registrar for delivery to Holders. Persons exchanging interests in a Global Note for individual definitive notes will be required to provide the Registrar, through the relevant clearing system, with written instruction and other information required by the Issuer and the Registrar to complete, execute and deliver such individual definitive notes. In all cases, individual definitive notes delivered in exchange for any Global Note or beneficial interests therein will be registered in the names, and issued in any approved denominations, requested by the relevant clearing system.

Individual definitive notes will not be eligible for clearing and settlement through Euroclear or Clearstream.

### **NOTICES**

All notices or demands required or permitted by the terms of the Notes or the Indenture to be given to or by the Holders are required to be in writing and may be given or served by being sent by prepaid courier or first-class mails of the relevant jurisdiction (if intended for the Issuer, the Parent Guarantor or any Subsidiary Guarantor) addressed to the Issuer, the Parent Guarantor or such Subsidiary Guarantor, as the case may be, at No. 3998 Hongxin Road, Minhang District, Shanghai 201103, People's Republic of China, Attention: Ms. LUO Ping; and (if intended for the Trustee) addressed to the Trustee at the corporate trust office of the Trustee and (if intended for any Holder) addressed to such Holder at such Holder's last address as it appears in the Notes Register (or otherwise delivered to such Holders in accordance with applicable Euroclear or Clearstream procedures).

Any such notice or demand will be deemed to have been sufficiently given or served when so sent or deposited and, if to the Holders, when delivered in accordance with the applicable rules and procedures of the relevant

clearing system. Any such notice shall be deemed to have been delivered on the day such notice is delivered to the relevant clearing system or if by mail, when so sent or deposited.

## **CONSENT TO JURISDICTION; SERVICE OF PROCESS**

The Issuer, the Parent Guarantor and the Subsidiary Guarantors (if any) will irrevocably (1) submit to the non-exclusive jurisdiction of any U.S. federal or New York state court located in the Borough of Manhattan, The City of New York in connection with any suit, action or proceeding arising out of, or relating to, the Notes, the Parent Guarantee, any Subsidiary Guarantee or the Indenture or any transaction contemplated thereby; and (2) designate and appoint Cogency Global Inc. located at 122 East 42nd Street, 18th Floor, New York, NY 10168, USA, for receipt of service of process in any such suit, action or proceeding.

## **GOVERNING LAW**

Each of the Notes, the Parent Guarantee, the Subsidiary Guarantees (if any) and the Indenture provides that such instrument will be governed by, and construed in accordance with, the laws of the State of New York.

## **DEFINITIONS**

Set forth below are defined terms used in the covenants and other provisions of the Indenture. Reference is made to the Indenture for other capitalized terms used in this "Description of the Notes" for which no definition is provided.

**"Acquired Indebtedness"** means Indebtedness of a Person existing at the time such Person becomes a Restricted Subsidiary or Indebtedness of a Restricted Subsidiary assumed in connection with an Asset Acquisition by such Restricted Subsidiary whether or not Incurred in connection with, or in contemplation of, the Person merging with or into or becoming a Restricted Subsidiary.

**"Adjusted Treasury Rate"** means, with respect to any redemption date, (i) 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 (if no maturity is within three (3) months before or after January 30, 2024, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue shall be determined and the Adjusted Treasury Rate shall be interpolated or extrapolated from such yields on a straight line basis, rounding to the nearest month) or (ii) 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 annum equal to the semi-annual 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 such redemption date, in each case calculated on the third Business Day immediately preceding the redemption date.

**"Affiliate"** means, with respect to any Person, any other Person (1) directly or indirectly controlling, controlled by, or under direct or indirect common control with, such Person or (2) who is a director or officer of such Person or any Subsidiary of such Person or of any Person referred to in clause (1) of this definition. For purposes of this definition, **"control"** (including, with correlative meanings, the terms **"controlling," "controlled by"** and **"under common control with"**), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

**"Affiliate Services Transactions"** means transactions with customers, clients, suppliers, contractors, other service providers or purchasers and sellers of goods and services or lessors or lessees that constitute Affiliate Transactions and are in a Permitted Business.

**"Applicable Premium"** means with respect to any Note at any redemption date, the greater of (1) 1.00% of the principal amount of such Note and (2) the excess of (A) the present value at such redemption date of the principal amount of such Note plus all required remaining scheduled interest payments due on such Note through January 30, 2024 (but excluding accrued and unpaid interest, if any, to the redemption date), computed using a discount rate equal to the Adjusted Treasury Rate plus 100 basis points, over (B) the principal amount of such Note on such redemption date.

**"Asset Acquisition"** means (1) an investment by the Parent Guarantor or any Restricted Subsidiary in any other Person pursuant to which such Person shall become a Restricted Subsidiary or shall be merged into or consolidated with the Parent Guarantor or any Restricted Subsidiary; or (2) an acquisition by the Parent Guarantor or any Restricted Subsidiary of the property and assets of any Person other than the Parent Guarantor or any Restricted Subsidiary that constitute substantially all of a division or line of business of such Person.

**"Asset Sale"** means any sale, transfer or other disposition (including by way of merger, consolidation or Sale and Leaseback Transaction) of any of its property or assets (including any sale of Capital Stock of a Subsidiary or issuance of Capital Stock of a Restricted Subsidiary) in one transaction or a series of related transactions by the Parent Guarantor or any Restricted Subsidiary to any Person; *provided* that "Asset Sale" shall not include:

- (1) any sale, transfer or other disposition of inventory, receivables or other current assets in the ordinary course of business (including, without limitation, the rental of Vehicles);
- (2) any sale, transfer or other disposition of assets constituting a Permitted Investment or Investment permitted to be made by the covenant described under "— Certain Covenants — Limitation on Investment;"
- (3) a sale, transfer or other disposition of assets with a Fair Market Value not in excess of US\$1.0 million (or the Dollar Equivalent thereof) in any transaction or series of related transactions;
- (4) any sale, transfer, assignment or other disposition of any property or equipment that has become damaged, worn out, obsolete or otherwise unsuitable for use in connection with the business of the Parent Guarantor or the Restricted Subsidiaries;
- (5) any transfer, assignment or other disposition deemed to occur in connection with creating or granting any Permitted Lien;
- (6) a transaction covered by the covenant described under "— Consolidation, Merger and Sale of Assets;"
- (7) the sale or discount (with or without recourse and on customary or commercially reasonable terms) of accounts receivable or notes receivable arising in the ordinary course of business, or the conversion or exchange of accounts receivable for notes receivable;
- (8) sales or other dispositions of cash or Temporary Cash Investments;
- (9) any transfer, termination, unwinding or other disposition of Hedging Obligations; and
- (10) any sale, transfer or other disposition to the Parent Guarantor or a Restricted Subsidiary, including, without limitation, an issuance of Capital Stock by a Restricted Subsidiary to the Issuer or to another Restricted Subsidiary.

**"Associate"** means any corporation, association or other business entity primarily engaged in a Permitted Business, of which at least 20% of the voting power of the outstanding Capital Stock is owned, directly or indirectly, by the Parent Guarantor or any Restricted Subsidiary and which is treated as an "associate" in accordance with GAAP, and such Associate's Subsidiaries.

**"Attributable Indebtedness"** means, in respect of a Sale and Leaseback Transaction, at the time of determination, the present value, discounted at the interest rate implicit in the Sale and Leaseback Transaction, of the total obligations of the lessee for rental payments during the remaining term of the lease in the Sale and Leaseback Transaction.

**"Average Life"** means, at any date of determination with respect to any Indebtedness, the quotient obtained by dividing (1) the sum of the products of (a) the number of years from such date of determination to the dates of each successive scheduled principal payment of such Indebtedness and (b) the amount of such principal payment by (2) the sum of all such principal payments.

**"Bank Deposit Secured Indebtedness"** means Indebtedness of the Parent Guarantor or any Restricted Subsidiary that is secured by a pledge of one or more bank accounts or bank deposits of the Parent Guarantor or a Restricted Subsidiary or guaranteed by a guarantee or a letter of credit (or similar instruments) from or arranged by the Parent Guarantor or a Restricted Subsidiary and is used by the Parent Guarantor and its Restricted Subsidiaries to effect

exchange of U.S. dollars, Hong Kong dollars or other foreign currencies into Renminbi or vice versa, or to remit Renminbi or any foreign currency into or outside the PRC.

**"Board of Directors"** means the board of directors elected or appointed by the stockholders of the Parent Guarantor to manage the business of the Parent Guarantor or any committee of such board duly authorized to take the action purported to be taken by such committee.

**"Board Resolution"** means any resolution of the Board of Directors taking an action which it is authorized to take and adopted at a meeting duly called and held at which a quorum of disinterested members (if so required) was present and acting throughout or adopted by written resolution executed by every member of the Board of Directors.

**"Business Day"** means any day which is not a Saturday, Sunday, legal holiday or other day on which banking institutions in The City of New York, London or in Hong Kong (or in any other place in which payments on the Notes are to be made) are authorized or required by law or governmental regulation to close.

**"Capitalized Lease"** means, with respect to any Person, any lease of any property (whether real, personal or mixed) which, in conformity with GAAP, is required to be capitalized on the balance sheet of such Person.

**"Capitalized Lease Obligations"** means the discounted present value of the rental obligations under a Capitalized Lease.

**"Capital Stock"** means, with respect to any Person, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) in equity of such Person, whether outstanding on the Original Issue Date or issued thereafter, including, without limitation, all Common Stock and Preferred Stock, but excluding debt securities convertible or exchangeable into such equity.

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

- (1) the merger, amalgamation or consolidation of the Parent Guarantor with or into another Person (other than one or more Permitted Holders) or the merger or amalgamation of another Person (other than one or more Permitted Holders) with or into the Parent Guarantor, or the direct or indirect sale of all or substantially all the consolidated assets of the Parent Guarantor to another Person (other than one or more Permitted Holders);
- (2) the Permitted Holders, in aggregate, are the "beneficial owners" (as such term is used in Rule 13d-3 of the Exchange Act) of less than 25% of the total voting power of the Voting Stock of the Parent Guarantor;
- (3) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) is or becomes the beneficial owner (as defined above), directly or indirectly, of total voting power of the Voting Stock of the Parent Guarantor greater than such total voting power held beneficially by the Permitted Holders, in aggregate;
- (4) individuals who on the Original Issue Date constituted the Board of Directors, together with any new directors whose election or nomination to the Board of Directors was approved by a vote of at least a majority of the directors then still in office who were either directors on the Original Issue Date or whose election or nomination was previously so approved, cease for any reason to constitute a majority of the Board of Directors then in office; or
- (5) the adoption of a plan relating to the liquidation or dissolution of the Parent Guarantor.

**"Change of Control Triggering Event"** means the occurrence of both a Change of Control and a Rating Decline.

**"Clearstream"** means Clearstream Banking S.A.

**"Commodity Hedging Agreement"** means any commodities swap agreement, commodities cap agreement, commodities floor agreement, commodities futures agreement, commodities option agreement or any other similar agreement or arrangement which may consist of one or more of the foregoing agreements, designed to manage commodities prices and commodities price risk.

**"Common Stock"** means, with respect to any Person, any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or non-voting) of such Person's common stock or

ordinary shares, whether or not outstanding at the date of the Indenture, and includes, without limitation, all series and classes of such common stock or ordinary shares.

**"Comparable Treasury Issue"** means the U.S. Treasury security having a maturity comparable to January 30, 2024 that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities with a comparable maturity to January 30, 2024.

**"Comparable Treasury Price"** means, with respect to any redemption date, if clause (ii) of the Adjusted Treasury Rate is applicable, the average of three (or such lesser number as is obtained by the Issuer) Reference Treasury Dealer Quotations for such redemption date.

**"Consolidated Debt"** means, with respect to any Person as of any determination date, an amount equal to the sum of (1) the aggregate amount of all outstanding Indebtedness described in clauses (1), (2), (5), (8) and, without double counting, (7) (to the extent such Guarantee is in respect of Indebtedness described in clauses (1), (2), (5) and (8) of the definition of "Indebtedness") of the definition of "Indebtedness" of such Person and its Restricted Subsidiaries on a consolidated basis, plus (2) the aggregate liquidation preference of Disqualified Stock of the Parent Guarantor, the Issuer and any Subsidiary Guarantor and Disqualified Stock and Preferred Stock of Restricted Subsidiaries (other than the Issuer or any Subsidiary Guarantor). For the purpose of this definition, "Consolidated Debt" shall not include any Indebtedness Incurred by any Restricted Subsidiary arising from the use of bank acceptance notes or commercial notes to purchase automobiles or automobile-related spare parts, equipment or accessories in the ordinary course of business, *provided* that such Indebtedness is settled within 360 days of Incurrence.

**"Consolidated Debt to Equity Ratio"** means, with respect to any determination date, the ratio of Consolidated Debt of the Parent Guarantor as of the date of the most recent annual or semi-annual half year or quarterly consolidated balance sheet (the **"Most Recent Balance Sheet Date"**) to the Consolidated Net Worth of the Parent Guarantor as of the Most Recent Balance Sheet Date. In the event that the Parent Guarantor or any Restricted Subsidiary Incurs, assumes, Guarantees, redeems, repays, discharges, defeases, retires or extinguishes any Consolidated Debt (other than Consolidated Debt incurred under any revolving credit facility unless (x) such Indebtedness has been permanently repaid and has not been replaced or (y) such Indebtedness was reduced with proceeds of an Equity Offering or other Indebtedness) or issues or redeems Disqualified Stock or Preferred Stock subsequent to the Most Recent Balance Sheet Date for which the Consolidated Debt to Equity Ratio is being calculated but prior to or simultaneously with the event for which the calculation of the Consolidated Debt to Equity Ratio is made (the **"Consolidated Debt to Equity Ratio Calculation Date"**), then the Consolidated Debt to Equity Ratio shall be calculated giving *pro forma* effect to such Incurrence, assumption, Guarantee, redemption, repayment, discharge, defeasance, retirement or extinguishment of Indebtedness, or such Issuance or redemption of Disqualified Stock or Preferred Stock as if the same had occurred on the Most Recent Balance Sheet Date. For purposes of making the computation referred to above, any Investments, acquisitions, dispositions, mergers, consolidations and disposed operations that have been made by the Parent Guarantor or any of its Restricted Subsidiaries on or prior to or simultaneously with the Consolidated Debt to Equity Ratio Calculation Date shall be calculated on a *pro forma* basis assuming that all such Investments, acquisitions, dispositions, mergers, consolidations and disposed or discontinued operations had occurred on the Most Recent Balance Sheet Date. For purpose of this definition, whenever *pro forma* is to be given to a transaction, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Parent Guarantor.

**"Consolidated Net Worth"** means, at any date of determination, stockholders' equity as set forth on the most recently available quarterly, semi-annual half year or annual consolidated balance sheet of the Parent Guarantor, plus, to the extent not included, any Preferred Stock of the Parent Guarantor, less any amounts attributable to Disqualified Stock or any equity security convertible into or exchangeable for Indebtedness, the cost of treasury stock and the principal amount of any promissory notes receivable from the sale of the Capital Stock of the Parent Guarantor or any of the Restricted Subsidiaries, each item to be determined in conformity with GAAP; *provided* that for the determination of the Consolidated Debt to Equity Ratio, Consolidated Net Worth is determined on a *pro forma* basis in a manner consistent with the *pro forma* basis contained in the definition of "Consolidated Debt to Equity Ratio."

**"Credit Facilities"** means one or more of the facilities, bonds or arrangements designated by the Parent Guarantor with one or more banks or other lenders, institutions or investors providing for revolving credit loans, term loans, receivables or fleet financings (including without limitation through the sale of receivables or fleet assets to such institutions or to special purpose entities formed to borrow from such institutions against such receivables or fleet assets or the creation of any Liens in respect of such receivables or fleet assets in favor of such institutions), letters of credit, bonds or other Indebtedness, in each case, including all agreements, instruments and documents executed

and delivered pursuant to or in connection with any of the foregoing, including but not limited to any notes and letters of credit issued pursuant thereto and any guarantee and collateral agreement, patent and trademark security agreement, mortgages or letter of credit applications and other guarantees, pledge agreements, security agreements and collateral documents, in each case as the same may be amended, supplemented, waived or otherwise modified from time to time, or refunded, refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original banks, lenders or institutions or other banks, lenders or institutions or otherwise, and whether provided under any original Credit Facility or one or more other credit agreements, indentures, financing agreements or other Credit Facilities or otherwise). Without limiting the generality of the foregoing, the term "Credit Facility" shall include any agreement (1) changing the maturity of any Indebtedness Incurred thereunder or contemplated thereby, (2) adding Subsidiaries as additional borrowers or guarantors thereunder, (3) increasing the amount of Indebtedness Incurred thereunder or available to be borrowed thereunder or (4) otherwise altering the terms and conditions thereof.

**"Currency Hedging Agreement"** means any foreign exchange forward contract, currency swap agreement, currency hedge agreement, currency floor agreement, currency futures agreement, commodity option agreement or any other similar agreement or arrangement which may consist of one or more of the foregoing agreements, designed to manage currencies and currency risk.

**"Default"** means any event that is, or after notice or passage of time or both would be, an Event of Default under the Indenture.

**"Disqualified Stock"** means any class or series of Capital Stock of any Person that by its terms or otherwise is (1) required to be redeemed prior to the date that is 183 days after the Stated Maturity of the Notes, (2) redeemable at the option of the holder of such class or series of Capital Stock at any time prior to the date that is 183 days after the Stated Maturity of the Notes, or (3) convertible into or exchangeable for Capital Stock referred to in clause (1) or (2) above or Indebtedness having a scheduled maturity at any time prior to the date that is 183 days after the Stated Maturity of the Notes; *provided* that any Capital Stock that would not constitute Disqualified Stock but for provisions thereof giving holders thereof the right to require such Person to repurchase or redeem such Capital Stock upon the occurrence of an "asset sale" or "change of control" occurring prior to the date that is 183 days after the Stated Maturity of the Notes shall not constitute Disqualified Stock if the "asset sale" or "change of control" provisions applicable to such Capital Stock are no more favorable to the holders of such Capital Stock than the provisions contained in the "— Certain Covenants — Limitation on Asset Sales" and "— Repurchase of Notes upon a Change of Control Triggering Event" covenants and such Capital Stock specifically provides that such Person will not repurchase or redeem any such stock pursuant to such provision prior to the Issuer's or the Parent Guarantor's repurchase of such Notes as are required to be repurchased pursuant to the covenants described under "— Certain Covenants — Limitation on Asset Sales" and "— Repurchase of Notes upon a Change of Control Triggering Event."

**"Dollar Equivalent"** means, with respect to any monetary amount in a currency other than U.S. dollars, at any time for the determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars at the noon buying rate for U.S. dollars in New York City for cable transfers as certified for customs purposes by the Federal Reserve Bank of New York on the date of determination.

**"Entrusted Loans"** means borrowings by a PRC Restricted Subsidiary from a bank that are secured by a pledge of deposits made by another PRC Restricted Subsidiary to the lending bank as security for such borrowings; *provided* that such borrowings are not reflected on the consolidated balance sheet of the Parent Guarantor.

**"Equity Offering"** means (i) any bona fide public or private offering of Capital Stock (other than Disqualified Stock) of the Parent Guarantor other than to Affiliates of the Parent Guarantor after the Original Issue Date or (ii) any bona fide underwritten secondary public offering or secondary private placement of Capital Stock (other than Disqualified Stock) of the Parent Guarantor beneficially owned by the Permitted Holders, after the Original Issue Date, to the extent that the Permitted Holders or a company controlled by such Person concurrently with such public offering or private placement purchases in cash an equal amount of Capital Stock (other than Disqualified Stock) from the Parent Guarantor at the same price as the public offering or private placing price; *provided* that the aggregate gross cash proceeds received by the Parent Guarantor as a result of such offering described in clause (i) or (ii) or a combination thereof (excluding gross cash proceeds received from the Parent Guarantor or any of its Subsidiaries) shall be no less than US\$25.0 million (or the Dollar Equivalent thereof).

**"Euroclear"** means Euroclear Bank SA/NV.

**"Exchange Act"** means the U.S. Securities Exchange Act of 1934, as amended.

**"Fair Market Value"** means the price that would be paid in an arm's-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, as determined in good faith by the Board of Directors, whose determination shall be conclusive if evidenced by a Board Resolution.

**"Finance Subsidiary"** means a Subsidiary of the Parent Guarantor (i) that is a Restricted Subsidiary and whose operations are comprised of Incurring Indebtedness to Persons other than the Parent Guarantor or any Restricted Subsidiary from time to time to finance the operations of the Parent Guarantor and/or its Subsidiaries and (ii) which conducts no business and owns no material assets other than any equity interests in a Finance Subsidiary or intercompany Indebtedness Incurred in connection with the Indebtedness described in clause (i).

**"Fitch"** means Fitch Ratings Ltd., a subsidiary of the Fitch Group, a jointly owned subsidiary of Fimalac, S.A. and Hearst Corporation, and its successors.

**"Financial Company Investor"** means a bank, financial institution, trust company, fund management company, asset management company, financial management company or insurance company, or an Affiliate thereof, that invests in any Capital Stock of the Parent Guarantor or a Restricted Subsidiary.

**"GAAP"** means the Accounting Standards for Business Enterprises issued by the Ministry of Finance of the PRC on February 15, 2006 and the specific accounting standards and other relevant regulations issued by the Ministry of Finance of the PRC on such date and from time to time thereafter. **"Group"** means the Parent Guarantor and its Subsidiaries, taken as a whole;

**"Guarantee"** means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (1) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise) or (2) entered into for purposes of assuring in any other manner the obligee of such Indebtedness or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); *provided* that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

**"Hedging Obligation"** of any Person means the obligations of such Person pursuant to any Commodity Hedging Agreement, Currency Hedging Agreement or Interest Rate Hedging Agreement. **"Holder"** means the Person in whose name a Note is registered in the register of Holders.

**"Incur"** means, with respect to any Indebtedness or Disqualified Stock, to incur, create, issue, assume, Guarantee or otherwise become liable for or with respect to, or become responsible for, the payment of, contingently or otherwise, such Indebtedness; *provided* that (1) any Indebtedness and Disqualified Stock of a Person existing at the time such Person becomes a Restricted Subsidiary will be deemed to be Incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary and (2) the accretion of original issue discount shall not be considered an Incurrence of Indebtedness. The terms "Incurrence," "Incurred" and "Incurring" have meanings correlative with the foregoing.

**"Indebtedness"** means, with respect to any Person at any date of determination (without duplication):

- (1) all indebtedness of such Person for borrowed money;
- (2) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;
- (3) all obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments;
- (4) all obligations of such Person to pay the deferred and unpaid purchase price of property or services, except Trade Payables;
- (5) all Capitalized Lease Obligations and Attributable Indebtedness;
- (6) all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; *provided* that the amount of such Indebtedness shall be the

lesser of (a) the Fair Market Value of such asset at such date of determination and (b) the amount of such Indebtedness;

- (7) all Indebtedness of other Persons Guaranteed by such Person to the extent such Indebtedness is Guaranteed by such Person;
- (8) to the extent not otherwise included in this definition, Hedging Obligations;
- (9) all Disqualified Stock issued by such Person valued at the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price plus accrued dividends; and
- (10) any Preferred Stock issued by (a) such Person, if such Person is a Restricted Subsidiary or (b) any Restricted Subsidiary of such Person valued at the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price plus accrued dividends.

Notwithstanding the foregoing, Indebtedness shall not include any capital commitments, deferred payment obligation or similar obligations Incurred in the ordinary course of business in connection with the acquisition, development, construction or improvement of property or assets to be used in a Permitted Business or Entrusted Loans; *provided* that such item is not reflected on the consolidated balance sheet of the Parent Guarantor and the Restricted Subsidiaries (contingent obligations and commitments referred to in a footnote to financial statements and not otherwise reflected on the balance sheet as borrowings or indebtedness will not be deemed to be reflected on such balance sheet).

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations, the maximum liability upon the occurrence of the contingency giving rise to the obligation; *provided* that:

- (1) the amount outstanding at any time of any Indebtedness issued with original issue discount is the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at such time as determined in conformity with GAAP;
- (2) money borrowed and set aside at the time of the Incurrence of any Indebtedness in order to prefund the payment of the interest on such Indebtedness shall not be deemed to be "Indebtedness" so long as such money is held to secure the payment of such interest; and
- (3) the amount of Indebtedness with respect to any Hedging Obligation shall be (i) zero if Incurred pursuant to paragraph 2(f) under the "Limitation on Indebtedness and Preferred Stock" covenant or (ii) equal to the net amount payable by such Person if the Commodity Hedging Agreement, Currency Hedging Agreement or Interest Rate Hedging Agreement giving rise to such Hedging Obligation were terminated at that time due to default by such Person if not Incurred pursuant to such paragraph.

**"Independent Third Party"** means any Person that is not an Affiliate of the Parent Guarantor.

**"Interest Rate Hedging Agreement"** means any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement, option or future contract or other similar agreement or arrangement designed to protect against fluctuations in interest rates, convert a fixed rate of interest into a floating rate of interest, convert a floating rate of interest into a different floating rate of interest or reduce or manage interest expenses.

**"Investment"** means:

- (1) any direct or indirect advance, loan or other extension of credit to another Person;
- (2) any capital contribution to another Person (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others);
- (3) any purchase or acquisition of Capital Stock (or options, warrants or other rights to acquire such Capital Stock), Indebtedness, bonds, notes, debentures or other similar instruments or securities issued by another Person; or
- (4) any Guarantee of any obligation of another Person.

For the purposes of the provisions of the covenants described under "— Certain Covenants — Designation of Restricted and Unrestricted Subsidiaries" and "— Certain Covenants — Limitation on Investment": (1) the Parent Guarantor will be deemed to have made an Investment in an Unrestricted Subsidiary in an amount equal to the Fair Market Value of the Parent Guarantor's proportionate interest in the assets (net of the liabilities owed to any Person other than the Parent Guarantor or a Restricted Subsidiary and that are not Guaranteed by the Parent Guarantor or a Restricted Subsidiary) of a Restricted Subsidiary that is designated an Unrestricted Subsidiary calculated as of the time of such designation; (2) if the Parent Guarantor or any Restricted Subsidiary of the Parent Guarantor sells or otherwise disposes of any Investment in any direct or indirect Restricted Subsidiary of the Parent Guarantor such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary of the Parent Guarantor, the Parent Guarantor will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Parent Guarantor's Investments in such Restricted Subsidiary that were not sold or disposed of; (3) the acquisition by the Parent Guarantor or any Restricted Subsidiary of the Parent Guarantor of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Parent Guarantor or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person; and (4) any property transferred to or from any Person shall be valued at its Fair Market Value at the time of such transfer, as determined in good faith by the Board of Directors.

**"Investment Grade"** means a rating of "AAA," "AA," "A" or "BBB," as modified by a "+" or "-" indication, or an equivalent rating representing one of the four highest Rating Categories, by Fitch or any of its successors or assigns, or a rating of "Aaa," "Aa," "A" or "Baa," as modified by a "1," "2" or "3" indication, or an equivalent rating representing one of the four highest Rating Categories, by Moody's or any of its successors or assigns, or the equivalent ratings of any internationally recognized rating agency or agencies, as the case may be, which shall have been designated by the Parent Guarantor as having been substituted for Fitch or Moody's or both of them, as the case may be.

**"Investment Property"** means any property that is owned and held by the Parent Guarantor or any Restricted Subsidiary for long-term rental yields or for capital appreciation or both.

**"Jointly Controlled Entity"** means any corporation, association or other business entity primarily engaged in a Permitted Business, of which at least 20% of the voting power of the outstanding Capital Stock is owned, directly or indirectly, by the Parent Guarantor or any Restricted Subsidiary and which is treated as a "jointly controlled entity" in accordance with GAAP, and such Jointly Controlled Entity's Subsidiaries.

**"Lien"** means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including, without limitation, any conditional sale or other title retention agreement or lease in the nature thereof or any agreement to create any mortgage, pledge, security interest, lien, charge, easement or encumbrance of any kind).

**"Maturity Date"** means January 30, 2024.

**"Measurement Date"** means December 15, 2016.

**"Moody's"** means Moody's Investors Service, Inc. and its successors.

**"NDRC"** means the National Development and Reform Commission of the PRC or its competent local counterpart.

**"Net Cash Proceeds"** means:

- (1) with respect to any Asset Sale (other than the issuance or sale of Capital Stock), the proceeds of such Asset Sale in the form of cash or cash equivalents, including payments in respect of deferred payment obligations (to the extent corresponding to the principal, but not interest, component thereof) when received in the form of cash or cash equivalents and proceeds from the conversion of other property received when converted to cash or cash equivalents, net of:
  - (a) brokerage commissions and other fees and expenses (including fees and expenses of counsel and investment banks) related to such Asset Sale;
  - (b) provisions for all taxes (whether or not such taxes will actually be paid or are payable) as a result of such Asset Sale without regard to the consolidated results of operations of the Parent Guarantor and the Restricted Subsidiaries, taken as a whole;

- (c) payments made to repay Indebtedness or any other obligation outstanding at the time of such Asset Sale that either (x) is secured by a Lien on the property or assets sold or (y) is required to be paid as a result of such sale; and
  - (d) appropriate amounts to be provided by the Parent Guarantor or any Restricted Subsidiary as a reserve against any liabilities associated with such Asset Sale, including, without limitation, pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale, all as determined in conformity with GAAP and reflected in an Officer's Certificate delivered to the Trustee; and
- (2) with respect to any Asset Sale consisting of the issuance or sale of Capital Stock, the proceeds of such issuance or sale in the form of cash or cash equivalents, including payments in respect of deferred payment obligations (to the extent corresponding to the principal, but not interest, component thereof) when received in the form of cash or cash equivalents and proceeds from the conversion of other property received when converted to cash or cash equivalents, net of attorneys' fees, accountants' fees, underwriters' or placement agents' fees, discounts or commissions and brokerage, consultant and other fees incurred in connection with such issuance or sale and net of taxes paid or payable as a result thereof.

**"Offer to Purchase"** means an offer to purchase Notes by the Issuer or the Parent Guarantor from the Holders commenced by the Issuer or the Parent Guarantor mailing a notice by first class mail, postage prepaid, to the Trustee and each Holder at its last address appearing in the Notes Register stating:

- (1) the provision in the Indenture pursuant to which the offer is being made and that all Notes validly tendered will be accepted for payment on a *pro rata* basis;
- (2) the purchase price and the date of purchase (which shall be a Business Day no earlier than 30 days nor later than 60 days from the date such notice is mailed, provided that for the purpose of a SAFE Non-compliance Offer, the date of purchase shall be no earlier than 25 days and no later than 35 days from the date such notice is mailed) (the **"Offer to Purchase Payment Date"**);
- (3) that any Note not tendered will continue to accrue interest pursuant to its terms;
- (4) that, unless the Issuer or the Parent Guarantor defaults in the payment of the purchase price, any Note accepted for payment pursuant to the Offer to Purchase shall cease to accrue interest on and after the Offer to Purchase Payment Date;
- (5) that Holders electing to have a Note purchased pursuant to the Offer to Purchase will be required to surrender the Note, together with the form entitled "Option of the Holder to Elect Purchase" on the reverse side of the Note completed, to the Principal Paying Agent at the address specified in the notice prior to the close of business on the Business Day immediately preceding the Offer to Purchase Payment Date;
- (6) that Holders will be entitled to withdraw their election if the Principal Paying Agent receives, not later than the close of business on the third Business Day immediately preceding the Offer to Purchase Payment Date, a facsimile transmission or letter setting forth the name of such Holder, the principal amount of Notes delivered for purchase and a statement that such Holder is withdrawing his election to have such Notes purchased; and
- (7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered; provided that each Note purchased and each new Note issued shall be in a principal amount of US\$200,000 or any amount in excess thereof which is an integral multiple of US\$1,000.

One Business Day prior to the Offer to Purchase Payment Date, the Issuer or the Parent Guarantor (as the case may be) shall deposit with the Principal Paying Agent money sufficient to pay the purchase price of all Notes or portions thereof to be accepted by the Issuer or the Parent Guarantor (as the case may be) for payment on the Offer to Purchase Payment Date. On the Offer to Purchase Payment Date, the Issuer or the Parent Guarantor shall (a) accept for payment on a *pro rata* basis Notes or portions thereof tendered pursuant to an Offer to Purchase; and (b) deliver, or cause to be delivered, to the Trustee all Notes or portions thereof so accepted together with an Officer's Certificate specifying the Notes or portions thereof accepted for payment by the Issuer or the Parent Guarantor. The Principal Paying Agent shall promptly mail to the Holders of Notes so accepted payment in an amount equal to the purchase price, and upon receipt of written order of the Issuer or the Parent Guarantor (as the

case may be) signed by an Officer the Registrar shall promptly authenticate and mail to such Holders a new Note equal in principal amount to any unpurchased portion of the Note surrendered; *provided* that each Note purchased and each new Note issued shall be in a principal amount of US\$200,000 or any amount in excess thereof which is an integral multiple of US\$1,000. The Issuer or the Parent Guarantor will publicly announce the results of an Offer to Purchase as soon as practicable after the Offer to Purchase Payment Date.

The Issuer or the Parent Guarantor will comply with Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable, in the event that the Issuer or the Parent Guarantor is required to repurchase Notes pursuant to an Offer to Purchase.

To the extent that the provisions of any securities laws or regulations of any jurisdiction conflict with the provisions of the Indenture governing any Offer to Purchase, the Issuer or the Parent Guarantor will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Indenture by virtue of such compliance. The Issuer and the Parent Guarantor will not be required to make an Offer to Purchase if a third party makes the Offer to Purchase in compliance with the requirements set forth in the Indenture applicable to an Offer to Purchase made by the Issuer or the Parent Guarantor and purchases all Notes properly tendered and not withdrawn under the Offer to Purchase.

The materials used in connection with an Offer to Purchase are required to contain or incorporate by reference information concerning the business of the Parent Guarantor and its Subsidiaries which the Parent Guarantor in good faith believes will assist such Holders to make an informed decision with respect to the Offer to Purchase, including a brief description of the events requiring the Issuer or the Parent Guarantor to make the Offer to Purchase, and any other information required by applicable law to be included therein. The offer is required to contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Offer to Purchase.

**"Officer"** means one of the executive officers or directors of the Issuer or the Parent Guarantor, in the case of a Restricted Subsidiary, one of the directors or officers of such Restricted Subsidiary.

**"Officer's Certificate"** means a certificate signed by any one Officer.

**"Opinion of Counsel"** means a written opinion from legal counsel in form and substance reasonably acceptable to the Trustee.

**"Original Issue Date"** means the date on which the Notes are originally issued under the Indenture.

**"Pari Passu Guarantee"** means a Guarantee by the Issuer, the Parent Guarantor or any Subsidiary Guarantor of Indebtedness of the Issuer (including Additional Notes), the Parent Guarantor, any Subsidiary Guarantor or a Finance Subsidiary, as the case may be; *provided* that (1) the Issuer, the Parent Guarantor and such Subsidiary Guarantors were permitted to incur such Indebtedness by the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock" and (2) such Guarantee ranks *pari passu* with the Notes, the Parent Guarantee or the Subsidiary Guarantee of such Subsidiary Guarantor, as the case may be.

**"Permitted Businesses"** means any business which is conducted by the Parent Guarantor and the Restricted Subsidiaries on the Original Issue Date as described in this offering memorandum and any business incidental, substantially similar, ancillary or complementary thereto (including, without limitation, any business relating to the sale, or facilitation of sales, of Vehicles, the provision of repairs and other services relating to Vehicles, provision of consumer loans for purchase of Vehicles and related products and services or other value-added services relating to travel and transport).

**"Permitted Holders"** means any or all of the following:

- (1) Mr. Sun Guangxin;
- (2) any Affiliate (other than an Affiliate as defined in clause (2) of the definition of Affiliate) of the Person specified in clause (1); and
- (3) any Person both the Capital Stock and the Voting Stock of which (or in the case of a trust, the beneficial interests in which) are owned 80% or more by one or more of the Persons specified in clauses (1) and (2).

**"Permitted Investment"** means:

- (1) any Investment in the Parent Guarantor or a Restricted Subsidiary that is primarily engaged in a Permitted Business or a Person which will, upon the making of such Investment, become a Restricted Subsidiary that is primarily engaged in a Permitted Business or will be merged or consolidated with or into, or transfer or convey all or substantially all its assets to, the Parent Guarantor or a Restricted Subsidiary that is primarily engaged in a Permitted Business;
- (2) cash or Temporary Cash Investments;
- (3) payroll, travel and similar advances made in the ordinary course of business to cover matters that are expected at the time of such advances ultimately to be treated as expenses in accordance with GAAP;
- (4) stock, obligations or securities received in satisfaction of judgments;
- (5) an Investment in an Unrestricted Subsidiary consisting solely of an Investment in another Unrestricted Subsidiary;
- (6) any Investment pursuant to a Hedging Obligation designed (i) solely to protect the Parent Guarantor or any Restricted Subsidiary against fluctuations in commodity prices, interest rates or foreign currency exchange rates or (ii) to reduce or manage interest expenses;
- (7) receivables, trade credits or other current assets owing to the Parent Guarantor or any Restricted Subsidiary, if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms;
- (8) Investments consisting of consideration received in connection with an Asset Sale under clause 3(b) of, and made in compliance with, the covenant described under "— Certain Covenants — Limitation on Asset Sales;"
- (9) pledges or deposits (x) with respect to leases or utilities provided to third parties in the ordinary course of business or (y) otherwise described in the definition of "Permitted Liens;"
- (10) loans or advances to vendors, contractors, suppliers or distributors, including advance payments for equipment and machinery made to the manufacturer thereof, of the Parent Guarantor or any Restricted Subsidiary in the ordinary course of business that are (i) recorded as deposits or prepaid expenses on the Parent Guarantor's consolidated balance sheet or (ii) dischargeable in accordance with customary trade terms within 120 days;
- (11) Investments in existence on the Original Issue Date;
- (12) deposits made in order to comply with statutory or regulatory obligations to maintain deposits for workers' compensation claims and other purposes specified by statute or regulation from time to time in the ordinary course of business of the Parent Guarantor or any Restricted Subsidiary;
- (13) Investments in securities of trade creditors, trade debtors or customers received pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of such trade creditor, trade debtor or customer;
- (14) deposits made at a financial institution in the PRC that will be pledged as security for an entrusted loan by such financial institution to a customer (who is not a Person described in clauses (x) or (y) of the first paragraph of the covenant described under "— Certain Covenants — Limitation on Transactions with Shareholders and Affiliates") of the Parent Guarantor or any Restricted Subsidiary pursuant to an entrusted loan agreement under which the Parent Guarantor or a Restricted Subsidiary is the ultimate lender and such customer is the borrower under the entrusted loan scheme, provided that such entrusted loan agreement was entered into in the ordinary course of business of the Parent Guarantor or such Restricted Subsidiary, as applicable;
- (15) repurchase of Notes;
- (16) loans (including entrusted loans), advances or leasings of money or assets to a customer (who is not a Person described in clauses (x) or (y) of the first paragraph of the covenant described under "— Certain Covenants—Limitation on Transactions with Shareholders and Affiliates") of the Parent Guarantor or any Restricted Subsidiary in the ordinary course of business and dischargeable in accordance with customary

lending or leasing terms, including but not limited to those made through asset management funds or limited partnership; and

- (17) payments made pursuant to any Staged Acquisition Agreement.

**"Permitted Liens"** means:

- (1) Liens for taxes, assessments, governmental charges or claims that are being contested in good faith by appropriate legal or administrative proceedings promptly instituted and diligently conducted and for which a reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made;
- (2) statutory and common law Liens of landlords and carriers, warehousemen, mechanics, suppliers, repairmen or other similar Liens arising in the ordinary course of business and with respect to amounts not yet delinquent or being contested in good faith by appropriate legal or administrative proceedings promptly instituted and diligently conducted and for which a reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made;
- (3) Liens incurred or deposits made to secure the performance of tenders, bids, leases, statutory or regulatory obligations, bankers' acceptances, surety and appeal bonds, government contracts, performance and return-of-money bonds and other obligations of a similar nature incurred in the ordinary course of business (exclusive of obligations for the payment of borrowed money);
- (4) leases or subleases granted to others that do not materially interfere with the ordinary course of business of the Parent Guarantor and the Restricted Subsidiaries, taken as a whole;
- (5) Liens on property of, or on shares of Capital Stock or Indebtedness of, any Person existing at the time such Person (i) becomes a Restricted Subsidiary or (ii) is merged with or into or consolidated with the Parent Guarantor or any Restricted Subsidiary; provided that such Liens do not extend to or cover any property or assets of the Parent Guarantor or any Restricted Subsidiary other than the property or assets of such Person (if such Person becomes a Restricted Subsidiary) or the property or assets acquired by the Parent Guarantor or such Restricted Subsidiary (if such Person is merged with or into or consolidated with the Parent Guarantor or such Restricted Subsidiary); provided, further, that such Liens were not created in contemplation of or in connection with the transactions or series of transactions pursuant to which such Person became a Restricted Subsidiary;
- (6) Liens in favor of the Parent Guarantor or any Restricted Subsidiary;
- (7) Liens arising from the rendering of a final judgment or order against the Parent Guarantor or any Restricted Subsidiary that do not give rise to an Event of Default;
- (8) Liens securing reimbursement obligations with respect to letters of credit, performance and surety bonds and completion guarantees that encumber documents and other property relating to such letters of credit and the products and proceeds thereof;
- (9) Liens existing on the Original Issue Date;
- (10) Liens securing Indebtedness which is Incurred to refinance Secured Indebtedness which is permitted to be Incurred under clause (2)(e) of the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;" provided that such Liens do not extend to or cover any property or assets of the Parent Guarantor or any Restricted Subsidiary other than the property or assets securing the Indebtedness being refinanced;
- (11) Liens securing Hedging Obligations permitted to be Incurred under clause (2)(f) of the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;" provided that (i) Indebtedness relating to any such Hedging Obligation is, and is permitted under the covenant described under "— Certain Covenants — Limitation on Liens" to be, secured by a Lien on the same property securing such Hedging Obligation or (ii) such Liens are encumbering customary initial deposits or margin deposits or are otherwise within the general parameters customary in the industry and incurred in the ordinary course of business or (iii) such Liens secure obligations set forth under Interest Rate Hedging Agreements designed to reduce or manage interest expenses;

- (12) Liens securing Attributable Indebtedness that is permitted to be Incurred under the Indenture;
- (13) any interest or title of a lessor under any Capitalized Lease Obligation permitted to be Incurred under the Indenture; provided, however, that the Liens do not extend to any property or assets which is not leased property subject to such Capitalized Lease Obligation;
- (14) easements, rights-of-way, municipal and zoning ordinances or other restrictions as to the use of properties in favor of governmental agencies or utility companies that do not materially adversely affect the value of such properties or materially impair the use for the purposes of which such properties are held by the Parent Guarantor or any Restricted Subsidiary;
- (15) any interest or title of a lessor in the property subject to any operating lease;
- (16) Liens on deposits made in order to comply with statutory obligations to maintain deposits for workers' compensation claims, welfare and social benefits, property maintenance and other purposes specified by statute made in the ordinary course of business and not securing Indebtedness of the Parent Guarantor or any Restricted Subsidiary;
- (17) Liens on deposits securing trade letters of credit (and reimbursement obligations relating thereto) incurred in the ordinary course of business;
- (18) Liens securing Indebtedness of the type described under clause (2)(g) of the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;" provided that such Lien (i) covers only the equipment, property or assets acquired, developed, constructed or improved with such Indebtedness and (ii) is created within 180 days of such acquisition; provided, further, that, in the case of clause (i), such Lien may cover other equipment, property or assets (instead of or in addition to such item of property or improvements) if (x) such Lien is incurred in the ordinary course of business and (y) the aggregate book value of equipment, property or assets (as reflected in the most recent available consolidated financial statements of the Parent Guarantor, which may be internal consolidated financial statements) or, if any such equipment, property or assets have been acquired since the date of such financial statements, the cost of such equipment, property or assets (other than, in each case, deposits of loan proceeds securing performance of obligations in relation to the use of such loan proceeds under a loan or similar agreement to which such loan proceeds relate to, entered into by the Parent Guarantor or any Restricted Subsidiary, if the Indebtedness Incurred under such agreement is otherwise permitted under the terms of the Indenture) subject to Liens incurred pursuant to this clause (18) does not exceed 130% of the aggregate principal amount of Indebtedness secured by such Liens;
- (19) Liens incurred or deposits made to secure Entrusted Loans;
- (20) Liens securing Indebtedness of any Restricted Subsidiary arising from the use of bank acceptance notes and commercial notes to purchase automobiles or automobile-related spare parts, equipment or accessories in the ordinary course of business, provided that such Indebtedness is settled within 360 days of Incurrence, which Indebtedness is permitted to be Incurred under clause (m) of the second paragraph of the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;"
- (21) Liens securing Indebtedness of any Restricted Subsidiary with a maturity date of one year or less used by the Parent Guarantor or any Restricted Subsidiary for (i) working capital purposes to purchase automobiles or automobile-related spare parts, equipment or accessories in the ordinary course of business or (ii) working capital purposes (other than to purchase automobiles or automobile-related spare parts, equipment or accessories) in the ordinary course of business, which Indebtedness is permitted to be Incurred under clause (n) and clause (o) of the second paragraph of the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;"
- (22) Liens securing Indebtedness permitted to be Incurred under clause (2)(q), (2)(r), (2)(u), (2)(w) or (2)(x) of the covenant described under the caption entitled "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;"
- (23) Liens incurred on one or more bank accounts or deposits or other assets to secure Bank Deposit Secured Indebtedness permitted to be Incurred under clause (2)(s) of the covenant described under the caption entitled "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;"

- (24) Liens on the Capital Stock of any Person in connection with a Staged Acquisition Agreement where the title to such Capital Stock has been transferred to the Parent Guarantor or a Restricted Subsidiary but the purchase price for such Capital Stock has not been paid by the Parent Guarantor or any Restricted Subsidiary, provided that this clause (24) shall be limited to Liens granted in favor of the seller of Capital Stock under the relevant Staged Acquisition Agreement;
- (25) Liens on the Capital Stock of the Parent Guarantor or a Restricted Subsidiary granted by the Parent Guarantor or any Restricted Subsidiary in favor of any Financial Company Investor in respect of, and to secure, the Indebtedness of the type described under clause (v) of the second paragraph of the covenant described under the caption entitled "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;"
- (26) Liens on Investment Properties or the assets or the Capital Stock of the Issuer or a Restricted Subsidiary directly or indirectly owning such Investment Properties securing Indebtedness of the Issuer, the Parent Guarantor, or any Restricted Subsidiary permitted to be Incurred under clause (2)(t) of the covenant described under the caption entitled "— Certain Covenants — Limitation on Indebtedness and Preferred Stock;" and
- (27) Liens with respect to obligations of the Parent Guarantor or any Restricted Subsidiary that do not exceed US\$15.0 million (or the Dollar Equivalent thereof using the Original Issue Date as the date of determination) at any one time outstanding.

**"Permitted Subsidiary Indebtedness"** means Indebtedness of any Non-Guarantor Subsidiary; *provided* that, on the date of Incurrence of such Indebtedness, and after giving effect thereto and the application of the proceeds thereof, the aggregate principal amount outstanding of all such Indebtedness (excluding any PRC Public Indebtedness and the amount of any Indebtedness of any Non-Guarantor Subsidiary permitted under clause (2)(a), (2)(b), (2)(d), (2)(f), (2)(l), (2)(s), (2)(t), (2)(u), (2)(v), (2)(w) and (2)(x) of the covenant described under "— Certain Covenants — Limitation on Indebtedness and Preferred Stock") does not exceed an amount equal to 30 % of Total Assets (or the Dollar Equivalent thereof).

**"Person"** means any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated organization or government or any agency or political subdivision thereof.

**"PRC"** means the People's Republic of China, excluding, solely for the purpose of this definition, Hong Kong Special Administrative Region, Macau Special Administrative Region and Taiwan.

**"PRC CJV"** means any future Subsidiary that is a Sino-foreign cooperative joint venture enterprise with limited liability, established in the PRC pursuant to the Law of the People's Republic of China on Sino-foreign Cooperative Joint Ventures adopted on April 13, 1988 (as most recently amended on October 31, 2000) and the Detailed Rules for the Implementation of the Law of the People's Republic of China on Sino-foreign Cooperative Joint Ventures promulgated on September 4, 1995, as such laws and regulations may be amended from time to time.

**"PRC Public Indebtedness"** means any present or future Indebtedness (whether being principal, premium, interest or other amounts) for or in respect of notes, bonds, debentures, debenture stock, loan stock or other securities (other than those issued outside of the PRC) which for the time being are, or are intended to be or capable of being, quoted, listed or dealt in or traded on any stock exchange, over-the-counter or other securities market issued by a Restricted Subsidiary in the PRC.

**"PRC Restricted Subsidiary"** means a Restricted Subsidiary organized under the laws of the PRC.

**"Preferred Stock"** as applied to the Capital Stock of any Person means Capital Stock of any class or classes that by its term is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

**"Rating Agencies"** means S&P, Moody's and Fitch; *provided* that if S&P, Moody's or Fitch shall not make a rating of the Notes publicly available, one or more nationally recognized securities rating agency or agencies, as the case may be, selected by the Parent Guarantor, which shall be substituted for S&P, Moody's or Fitch, as the case may be.

**"Rating Category"** means (i) with respect to S&P, any of the following categories: "BB," "B," "CCC," "CC," "C" and "D" (or equivalent successor categories); (ii) with respect to Moody's, any of the following categories: "Ba," "B," "Caa," "Ca," "C" and "D" (or equivalent successor categories); (iii) with respect to Fitch, any of the following categories: "BB," "B," "CCC," "CC," "C," or "D" (or equivalent successor categories); and (iv) the equivalent of any such category of S&P, Moody's or Fitch used by another Rating Agency. In determining whether the rating of the Notes has decreased by one or more gradations, gradations within Rating Categories ("+" and "-" for S&P; "1," "2" and "3" for Moody's; "+" and "-" for Fitch; or the equivalent gradations for another Rating Agency) shall be taken into account (e.g., with respect to S&P, a decline in a rating from "BB+" to "BB," as well as from "BB-" to "B+," will constitute a decrease of one gradation).

**"Rating Date"** means (1) in connection with a Change of Control Triggering Event, that date which is 90 days prior to the earlier of (x) a Change of Control and (y) a public notice of the occurrence of a Change of Control or of the intention by the Issuer or any other Person or Persons to effect a Change of Control, or (2) in connection with actions contemplated under the caption "— Consolidation, Merger and Sale of Assets," that date which is 90 days prior to the earlier of (x) the occurrence of any such actions as set forth therein and (y) a public notice of the occurrence of any such actions.

**"Rating Decline"** means (1) in connection with a Change of Control Triggering Event, the occurrence on, or within six months after, the date, or public notice of the occurrence of, a Change of Control or the intention by the Issuer or any other Person or Persons to effect a Change of Control (which period shall be extended so long as the rating of the Notes is under publicly announced consideration for possible downgrade by any of the Rating Agencies) of any of the events listed below, or (2) in connection with actions contemplated under the caption "Consolidation, Merger and Sale of Assets," the notification by any of the Rating Agencies that such proposed actions will result in any of the events listed below:

- (a) in the event the Notes are rated by all three Rating Agencies on the Rating Date as Investment Grade, the rating of the Notes by any two of the three or all three Rating Agencies shall be below Investment Grade;
- (b) in the event the Notes are rated by any two, but not all three, of the Rating Agencies on the Rating Date as Investment Grade, the rating of the Notes by either of such two Rating Agencies shall be below Investment Grade;
- (c) in the event the Notes are rated by one, and only one, of the three Rating Agencies on the Rating Date as Investment Grade, the rating of the Notes by such Rating Agency shall be below Investment Grade;
- (d) in the event the Notes are rated below Investment Grade by all three of the Rating Agencies on the Rating Date, the rating of the Notes by any two of the three or all three Rating Agencies shall be decreased by one or more gradations (including gradations within Rating Categories as well as between Rating Categories);
- (e) in the event the Notes are rated below Investment Grade by any two, but not three, Rating Agencies on the Rating Date, the rating of the Notes by both of such two Rating Agencies shall be decreased by one or more gradations (including gradations within Rating Categories as well as between Rating Categories); or
- (f) in the event the Notes are rated below Investment Grade by any one Rating Agency on the Rating Date, the rating of the Notes by such Rating Agency shall be decreased by one or more gradations (including gradations within Rating Categories as well as between Rating Categories).

**"Reference Treasury Dealer"** means each of any three investment banks of recognized standing that is a primary U.S. Government securities dealer in The City of New York, selected by the Parent Guarantor in good faith.

**"Reference Treasury Dealer Quotations"** means, with respect to each Reference Treasury Dealer and any redemption date, the average as determined by the Parent Guarantor in good faith, 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 by such Reference Treasury Dealer at 5:00 p.m. (New York City Time) on the third Business Day preceding such redemption date.

**"Registration Business Day"** means a day (other than a Saturday, Sunday or a public holiday) on which banks in the PRC are not authorized or obliged by law or executive order to be closed;

**"Restricted Subsidiary"** means any Subsidiary (including the Issuer) of the Parent Guarantor other than an Unrestricted Subsidiary.

**"S&P"** means S&P Global Ratings.

**"SAFE"** means the State Administration of Foreign Exchange of the PRC or its competent local counterpart.

**"SAFE Registration Deadline"** means the day falling 60 Registration Business Days after the Original Issue Date;

**"Sale and Leaseback Transaction"** means any direct or indirect arrangement relating to property (whether real, personal or mixed), now owned or hereafter acquired whereby the Parent Guarantor or any Restricted Subsidiary transfers such property to another Person and the Parent Guarantor or any Restricted Subsidiary leases it from such Person.

**"Secured Indebtedness"** means any Indebtedness of the Parent Guarantor or a Restricted Subsidiary secured by a Lien.

**"Securities Act"** means the U.S. Securities Act of 1933, as amended.

**"Significant Restricted Subsidiary"** means a Restricted Subsidiary, or group of Restricted Subsidiaries, that would, when taken together, be a "significant subsidiary" within the meaning of the definition of "significant subsidiary" in Article 1, Rule 1-02(w) of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Original Issue Date; *provided* that in each instance in such definition in which the term "10 percent" is used, the term "5 percent" shall be substituted therefor.

**"Staged Acquisition Agreement"** means an agreement between the Parent Guarantor or a Restricted Subsidiary and an Independent Third Party (x) pursuant to which the Parent Guarantor or such Restricted Subsidiary agrees to acquire 50% or more of the Capital Stock of a Person for a consideration that is not more than the Fair Market Value of such Capital Stock of such Person at the time the Parent Guarantor or such Restricted Subsidiary enters into such agreement and (y) which provides that the payment of the purchase price for such Capital Stock is made in more than one installment over a period of time.

**"Stated Maturity"** means (1) with respect to any Indebtedness, the date specified in such debt security as the fixed date on which the final installment of principal of such Indebtedness is due and payable as set forth in the documentation governing such Indebtedness and (2) with respect to any scheduled installment of principal of or interest on any Indebtedness, the date specified as the fixed date on which such installment is due and payable as set forth in the documentation governing such Indebtedness.

**"Subordinated Indebtedness"** means any Indebtedness of the Issuer, the Parent Guarantor or any Subsidiary Guarantor that is, in the event of the Winding-Up of the Issuer, the Parent Guarantor or, if any, the Subsidiary Guarantors, contractually subordinated or junior in right of payment to the Notes, the Parent Guarantee or, if any, the Subsidiary Guarantees, as applicable, pursuant to a written agreement to such effect.

**"Subsidiary"** means, with respect to any Person, any corporation, association or other business entity (i) of which more than 50% of the voting power of the outstanding Voting Stock is owned, directly or indirectly, by such Person and one or more other Subsidiaries of such Person or (ii) of which 50% or less of the voting power of the outstanding Voting Stock is owned, directly or indirectly, by such Person and one or more other Subsidiaries of such Person and in each case which is "controlled" and consolidated by such Person in accordance with GAAP; *provided, however*, that with respect to clause (ii), the occurrence of any event (other than the issuance or sale of Capital Stock) as a result of which such corporation, association or other business entity ceases to be "controlled" by such Person under the GAAP and to constitute a Subsidiary of such Person shall be deemed to be a designation of such corporation, association or other business entity as an Unrestricted Subsidiary by such Person and be subject to the requirements under the first paragraph of "Designation of Restricted and Unrestricted Subsidiaries" covenant.

**"Subsidiary Guarantee"** means any guarantee of the obligations of the Issuer under the Indenture and the Notes by a Subsidiary Guarantor.

**"Subsidiary Guarantor"** means any Restricted Subsidiary that Guarantees the obligations of the Issuer under the Indenture and the Notes; *provided* that "Subsidiary Guarantor" does not include any Person whose Subsidiary

Guarantee has been released in accordance with the Indenture and the Notes. "**Temporary Cash Investment**" means any of the following:

- (1) direct obligations of the United States of America, Hong Kong, the PRC or any agency of any of the foregoing or obligations fully and unconditionally Guaranteed by the United States of America, Hong Kong, the PRC or any agency of any of the foregoing, in each case maturing within one year;
- (2) demand or time deposit accounts, certificates of deposit and money market deposits maturing within 180 days of the date of acquisition thereof issued by a bank or trust company that is organized under the laws of the United States of America, any state thereof, Hong Kong or the PRC and which bank or trust company has capital, surplus and undivided profits aggregating in excess of US\$100.0 million (or the Dollar Equivalent thereof) and has outstanding debt which is rated "A" (or such similar equivalent rating) or higher by at least one nationally recognized statistical rating organization (as defined in Section 3(a)(62) of the Exchange Act) or any money market fund sponsored by a registered broker dealer or mutual fund distributor;
- (3) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clause (1) above entered into with a bank or trust company meeting the qualifications described in clause (2) above;
- (4) commercial paper, maturing not more than 180 days after the date of acquisition thereof, issued by a corporation (other than an Affiliate of the Parent Guarantor) organized and in existence under the laws of the United States of America, any state thereof or any foreign country recognized by the United States of America with a rating at the time as of which any investment therein is made of "P-1" (or higher) according to Moody's or "A-1" (or higher) according to S&P or Fitch;
- (5) securities maturing within one year of the date of acquisition thereof, issued or fully and unconditionally Guaranteed by any state, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least "A" by S&P, Moody's or Fitch;
- (6) any money market fund that has at least 95% of its assets continuously invested in investments of the types described in clauses (1) through (5) above;
- (7) demand or time deposit accounts, certificates of deposit overnight or call deposits and money market deposits with (i) BNP Paribas, DBS Bank, Malayan Banking Berhad, Standard Chartered Bank, The Hongkong and Shanghai Banking Corporation or any bank or other financial institution organized under the laws of the PRC or Hongkong (including any branches of banks or other financial institutions organized under other jurisdictions inside the PRC or Hong Kong), or (ii) any other bank or other financial institutions organized under any other jurisdiction; provided that, in the case of clause (ii), such deposits do not exceed US\$10.0 million (or the Dollar Equivalent thereof) with any single bank or US\$30.0 million (or the Dollar Equivalent thereof) in the aggregate, at any date of determination thereafter; and
- (8) investment or structured deposit products that are principal protected with any bank or financial institution organized under the laws of the PRC or Hong Kong if held to maturity (which shall not be more than one year) and can be withdrawn at any time with no more than six months' notice.

"**Total Assets**" means, as of any date, the total consolidated assets of the Parent Guarantor and its Restricted Subsidiaries measured in accordance with GAAP as of the last date of the most recent fiscal quarter for which consolidated financial statements of the Parent Guarantor (which the Parent Guarantor shall use its reasonable best efforts to compile in a timely manner) are available (which may be internal consolidated financial statements); *provided* (1) that only with respect to clause (2)(g)(ii) of the "— Certain Covenants — Limitation on Indebtedness and Preferred Stock" covenant and the definition of "Permitted Subsidiary Indebtedness," Total Assets shall be calculated after giving *pro forma* effect to include the cumulative value of all the equipment, property or assets the acquisition, construction or improvement of which requires or required the Incurrence of Indebtedness and calculation of Total Assets thereunder in each case as of such date, as measured by the purchase price or cost therefor or budgeted cost provided in good faith by the Parent Guarantor or any of its Restricted Subsidiaries to the bank or other similar financial institutional lender providing such Indebtedness; and (2) only with respect to clause (2)(r) of "— Certain Covenants — Limitation on Indebtedness and Preferred Stock" covenant, with respect to the Incurrence of any Acquired Indebtedness as a result of any Person becoming a Restricted Subsidiary, Total Assets shall be calculated after giving *pro forma* effect to include the consolidated assets of such Restricted Subsidiary and any other change to the consolidated assets of the Parent Guarantor as a result of such Person

becoming a Restricted Subsidiary; and (3) only with respect to any Person becoming a new Non-Guarantor Subsidiary, *pro forma* effect shall at such time be given to the consolidated assets of such new Non-Guarantor Subsidiary (including giving *pro forma* effect to any other change to the consolidated assets of the Parent Guarantor, in each case as a result of such Person becoming a new Non-Guarantor Subsidiary).

**"Trade Payables"** means, with respect to any Person, any accounts payable or any other indebtedness or monetary obligation to trade creditors created, assumed or Guaranteed by such Person or any of its Subsidiaries arising in the ordinary course of business in connection with the acquisition of goods or services.

**"Treasury Constant Maturities"**, for the maturity corresponding to the Comparable Treasury Issue (if no maturity is within three (3) months before or after January 30, 2024, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue shall be determined and the Adjusted Treasury Rate shall be interpolated or extrapolated from such yields on a straight line basis, rounding to the nearest month) or (11) 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 semi-annual 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 such redemption date, in each case calculated on the third Business Day immediately preceding the redemption date.

**"Unrestricted Subsidiary"** means (1) any Subsidiary of the Parent Guarantor that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors in the manner provided in the Indenture and (2) any Subsidiary of an Unrestricted Subsidiary.

**"U.S. Government Obligations"** means securities that are (1) direct obligations of the United States of America for the payment of which its full faith and credit is pledged or (2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the payment of which is unconditionally Guaranteed as a full faith and credit obligation by the United States of America, which, in either case, are not callable or redeemable at the option of the issuer thereof at any time prior to the Stated Maturity of the Notes, and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any such U.S. Government Obligation or a specific payment of interest on or principal of any such

U.S. Government Obligation held by such custodian for the account of the holder of a depository receipt; provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of interest on or principal of the U.S. Government Obligation evidenced by such depository receipt.

**"Vehicles"** means vehicles, including automobiles, trucks, tractors, trailers, vans, sport utility vehicles, buses, campers, motor homes, motorcycles and other motor vehicles.

**"Voting Stock"** means, with respect to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

**"Wholly Owned"** means, with respect to any Restricted Subsidiary, the ownership of all of the outstanding Capital Stock of such Subsidiary (other than any director's qualifying shares or Investments by foreign nationals mandated by applicable law) by the Parent Guarantor or one or more Wholly Owned Subsidiaries of the Parent Guarantor; *provided* that Subsidiaries that are PRC CJVs shall not be considered Wholly Owned Subsidiaries unless such Person or one or more Wholly Owned Restricted Subsidiaries of such Person are entitled to 95% or more of the economic benefits distributable by such Subsidiary.

**"Winding-Up"** means a final and effective court order or effective resolution by a competent authority in the respective jurisdiction of the Issuer, the Parent Guarantor or any Subsidiary Guarantor for the winding-up, liquidation or similar proceedings in respect of the Issuer, the Parent Guarantor or such Subsidiary Guarantor (as applicable).