

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

**x** **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2007

OR

**o** **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 001-31262

**ASBURY AUTOMOTIVE GROUP, INC.**

(Exact name of Registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**01-0609375**

(I.R.S. Employer Identification No.)

**622 Third Avenue, 37th Floor**

**New York, New York**

(Address of principal executive offices)

**10017**

(Zip Code)

**(212) 885-2500**

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes **x** No **o**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act:

Large Accelerated Filer **o**

Accelerated Filer **x**

Non-Accelerated Filer **o**

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes **o** No **x**

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date: The number of shares of common stock outstanding as of May 4, 2007, was 32,414,542 (net of 2,836,706 treasury shares).

**ASBURY AUTOMOTIVE GROUP, INC.  
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## PART I. FINANCIAL INFORMATION

### Item 1. Condensed Consolidated Financial Statements

**ASBURY AUTOMOTIVE GROUP, INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(In thousands, except share and per share data)  
(Unaudited)

	March 31, 2007	December 31, 2006
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 94,497	\$ 129,170
Contracts-in-transit	115,720	126,012
Accounts receivable (net of allowance of \$476 and \$648, respectively)	141,312	167,562
Inventories	780,491	775,313
Deferred income taxes	13,961	13,961
Prepaid and other current assets	69,328	55,099
Assets held for sale	22,359	25,947
Total current assets	1,237,668	1,293,064
PROPERTY AND EQUIPMENT, net	204,782	202,584
GOODWILL	447,021	447,996
OTHER LONG-TERM ASSETS	88,741	87,193
Total assets	<u>\$ 1,978,212</u>	<u>\$ 2,030,837</u>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Floor plan notes payable—manufacturer affiliated	\$ 225,676	\$ 319,896
Floor plan notes payable—non-manufacturer affiliated	445,762	380,881
Current maturities of long-term debt	24,841	23,144
Accounts payable	67,149	63,951
Accrued liabilities	86,499	89,296
Liabilities associated with assets held for sale	—	3,887
Total current liabilities	849,927	881,055
LONG-TERM DEBT	477,880	454,010
DEFERRED INCOME TAXES	45,702	53,991
OTHER LONG-TERM LIABILITIES	35,345	29,948
COMMITMENTS AND CONTINGENCIES (Note 11)		
<b>SHAREHOLDERS' EQUITY:</b>		
Preferred stock, \$.01 par value per share, 10,000,000 shares authorized	—	—
Common stock, \$.01 par value per share, 90,000,000 shares authorized, 35,181,154 and 35,071,401 shares issued, including shares held in treasury, respectively	352	351
Additional paid-in capital	431,648	431,725
Retained earnings	190,118	196,393
Treasury stock, at cost; 2,836,706 and 1,536,706 shares held, respectively	(50,634)	(14,559)
Accumulated other comprehensive loss	(2,126)	(2,077)
Total shareholders' equity	569,358	611,833
Total liabilities and shareholders' equity	<u>\$ 1,978,212</u>	<u>\$ 2,030,837</u>

See Notes to Condensed Consolidated Financial Statements.

**ASBURY AUTOMOTIVE GROUP, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF INCOME**  
(In thousands, except per share data)  
(Unaudited)

	For the Three Months Ended March 31,	
	2007	2006
<b>REVENUES:</b>		
New vehicle	\$ 824,451	\$ 809,657
Used vehicle	378,147	352,415
Parts, service and collision repair	174,288	168,529
Finance and insurance, net	38,684	35,150
Total revenues	1,415,570	1,365,751
<b>COST OF SALES:</b>		
New vehicle	764,914	752,607
Used vehicle	341,978	319,982
Parts, service and collision repair	84,615	84,243
Total cost of sales	1,191,507	1,156,832
<b>GROSS PROFIT</b>	224,063	208,919
<b>OPERATING EXPENSES:</b>		
Selling, general and administrative	176,386	163,291
Depreciation and amortization	5,328	4,955
Income from operations	42,349	40,673
<b>OTHER INCOME (EXPENSE):</b>		
Floor plan interest expense	(11,216)	(8,937)
Other interest expense	(11,786)	(10,903)
Interest income	1,965	727
Loss on extinguishment of long-term debt	(17,737)	—
Other income, net	292	344
Total other expense, net	(38,482)	(18,769)
Income before income taxes	3,867	21,904
<b>INCOME TAX EXPENSE</b>	1,458	8,214
<b>INCOME FROM CONTINUING OPERATIONS</b>	2,409	13,690
<b>DISCONTINUED OPERATIONS, net of tax</b>	(1,976)	(1,137)
<b>NET INCOME</b>	<u>\$ 433</u>	<u>\$ 12,553</u>
<b>EARNINGS PER COMMON SHARE:</b>		
Basic—		
Continuing operations	\$ 0.07	\$ 0.42
Discontinued operations	(0.06)	(0.04)
Net income	<u>\$ 0.01</u>	<u>\$ 0.38</u>
Diluted—		
Continuing operations	\$ 0.07	\$ 0.41
Discontinued operations	(0.06)	(0.04)
Net income	<u>\$ 0.01</u>	<u>\$ 0.37</u>
<b>WEIGHTED AVERAGE COMMON SHARES OUTSTANDING:</b>		
Basic	33,333	32,922
Diluted	<u>34,161</u>	<u>33,584</u>

See Notes to Condensed Consolidated Financial Statements.

**ASBURY AUTOMOTIVE GROUP, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(In thousands)  
(Unaudited)

	For the Three Months Ended March 31,	
	2007	2006
<b>CASH FLOW FROM OPERATING ACTIVITIES:</b>		
Net income	\$ 433	\$ 12,553
Adjustments to reconcile net income to net cash (used in) provided by operating activities-		
Depreciation and amortization	5,328	4,955
Depreciation and amortization from discontinued operations	27	84
Stock-based compensation	1,895	1,369
Amortization of deferred financing fees	627	573
Change in allowance for doubtful accounts	(172)	(216)
Loss (gain) on sale of discontinued operations, net	2,001	(53)

Loss on extinguishment of long-term debt	17,737	—
Deferred income taxes	(903)	—
Other adjustments	3,284	1,361
Changes in operating assets and liabilities, net of acquisitions and divestitures-		
Contracts-in-transit	10,292	23,292
Accounts receivable	20,786	9,839
Proceeds from the sale of accounts receivable	5,636	4,649
Inventories	609	(63,645)
Prepaid and other current assets	(17,397)	(7,468)
Floor plan notes payable—manufacturer affiliated	(94,219)	98,695
Accounts payable and accrued liabilities	498	(15,058)
Excess tax benefits from share-based payment arrangements	(891)	(381)
Other long-term assets and liabilities	69	3,137
Net cash (used in) provided by operating activities	(44,360)	73,686
CASH FLOW FROM INVESTING ACTIVITIES:		
Capital expenditures—internally financed	(10,230)	(5,534)
Capital expenditures—externally financed	(2,687)	(6,410)
Proceeds from the sale of assets	8,389	9,275
Other investing activities	(1,827)	(529)
Net cash used in investing activities	(6,355)	(3,198)
CASH FLOW FROM FINANCING ACTIVITIES:		
Floor plan borrowings—non-manufacturer affiliated	663,002	677,249
Floor plan repayments—non-manufacturer affiliated	(602,008)	(747,686)
Proceeds from borrowings	265,000	902
Repayments of debt	(253,919)	(1,554)
Debt issuance costs	(7,250)	—
Purchase of convertible note hedge	(19,309)	—
Sale of warrants	8,924	—
Purchase of treasury stock	(36,075)	—
Payment of dividends	(6,708)	—
Proceeds from the sale of assets associated with sale-leaseback agreements	3,181	—
Proceeds from the exercise of stock options, net	313	2,900
Excess tax benefits from share-based payment arrangements	891	381
Net cash provided by (used in) financing activities	16,042	(67,808)
Net (decrease) increase in cash and cash equivalents	(34,673)	2,680
CASH AND CASH EQUIVALENTS, beginning of period	129,170	57,194
CASH AND CASH EQUIVALENTS, end of period	<u>\$ 94,497</u>	<u>\$ 59,874</u>

See Note 10 for supplemental cash flow information.

See Notes to Condensed Consolidated Financial Statements.

**ASBURY AUTOMOTIVE GROUP, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(Unaudited)**

**1. DESCRIPTION OF BUSINESS**

Asbury Automotive Group, Inc. is a national automotive retailer, operating 112 franchises (85 dealership locations) in 21 metropolitan markets within 10 states as of March 31, 2007. We offer an extensive range of automotive products and services, including new and used vehicles, vehicle maintenance, replacement parts, collision repair services, and financing, insurance and service contracts. We offer 33 domestic and foreign brands of new vehicles, including four heavy truck brands. We also operate 23 collision repair centers that serve our markets.

Our retail network is currently organized into four regions and includes nine dealership groups, each marketed under different local brands: (i) Florida (comprising our Coggin dealerships, operating primarily in Jacksonville and Orlando, and our Courtesy dealerships operating in Tampa), (ii) West (comprising our McDavid dealerships operating throughout Texas and our California dealerships operating in Los Angeles, Sacramento and Fresno), (iii) Mid-Atlantic (comprising our Crown dealerships operating in North Carolina, South Carolina and Southern Virginia) and (iv) South (comprising our Nalley dealerships operating in Atlanta, Georgia, and our North Point dealerships operating in Little Rock, Arkansas). Our Plaza dealerships operating in St. Louis, Missouri and our Gray Daniels dealerships operating in Jackson, Mississippi remain standalone operations.

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

*Basis of Presentation*

The accompanying unaudited interim condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”), and reflect the condensed consolidated accounts of Asbury Automotive Group, Inc. and our wholly owned subsidiaries. All intercompany transactions have been eliminated in consolidation.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts of assets and liabilities and disclosures of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenues and expenses during the periods presented. Accordingly, actual results could differ from these estimates. Estimates and assumptions are reviewed quarterly and the effects of revisions are reflected in the condensed consolidated financial statements in the period they are determined to be necessary. Refer to “Critical Accounting Estimates” in Item 2 “Management’s Discussion and Analysis of Financial Condition and Results of Operations” for more information on our critical estimates.

In the opinion of management, all adjustments (consisting only of normal, recurring adjustments) considered necessary for a fair presentation of the unaudited interim condensed consolidated financial statements as of March 31, 2007, and for the three months ended March 31, 2007 and 2006 have been included. The results of operations for the three months ended March 31, 2007 are not necessarily indicative of the results that may be expected for the full year. Our interim unaudited condensed consolidated financial statements should be read together with our consolidated financial statements and the notes thereto contained in our Annual Report on Form 10-K/A for the year ended December 31, 2006.

In accordance with Statement of Financial Accounting Standards (“SFAS”) No. 144, “Accounting for the Impairment or Disposal of Long-Lived Assets,” certain amounts reflected in the accompanying Condensed Consolidated Balance Sheets as of March 31, 2007 and December 31, 2006, have been classified as Assets Held for Sale and Liabilities Associated with Assets Held for Sale. In addition, the accompanying Condensed Consolidated Statement of Income for the three months ended March 31, 2006, has been reclassified to reflect the status of our discontinued operations as of March 31, 2007.

#### *Revenue Recognition*

Revenue from the sale of new and used vehicles is recognized upon delivery, passage of title, signing of the sales contract and approval of financing. Revenue from the sale of parts, service and collision repair is recognized upon delivery of parts to the customer or at the time vehicle service or repair work is completed. Manufacturer incentives and rebates, including manufacturer holdbacks, floor plan interest assistance and certain advertising assistance, are recognized as a component of new vehicle cost of sales when earned, generally at the time the related vehicles are sold.

We receive commissions from third party lending and insurance institutions for arranging customer financing and for the sale of vehicle service contracts, credit life insurance and disability insurance to customers (collectively “F&I”). We may be charged back (“chargebacks”) for F&I commissions in the event a contract is terminated. F&I commissions are recorded at the time the vehicles are sold and a reserve for future chargebacks is established based on historical operating results and the termination provisions of the applicable contracts. F&I commissions, net of estimated chargebacks, are included in Finance and insurance, net in the accompanying Consolidated Statements of Income.

#### *Goodwill and Other Intangible Assets*

Goodwill represents the excess cost of the businesses acquired over the fair market value of the identifiable net assets. We have determined that based on how we operate our business, allocate resources, and regularly review our financial data and operating results that we qualify as a single reporting unit for purposes of testing goodwill for impairment. We evaluate our operations and financial results in the aggregate by dealership. The dealership general managers are responsible for customer facing activities, including inventory management and advertising and personnel decisions; and have the flexibility to respond to local market conditions. The corporate management team, with input from the regional management teams, is responsible for infrastructure and general strategy decisions.

The fair market value of our manufacturer franchise rights is determined at the acquisition date through discounting the projected cash flows specific to each franchise. We have determined that manufacturer franchise rights have an indefinite life as there are no legal, contractual, economic or other factors that limit their useful lives and they are expected to generate cash flows indefinitely due to the historically long lives of the manufacturers’ brand names. Due to the fact that manufacturer franchise rights are specific to the location in which we acquire a dealership, we have determined that the dealership is the reporting unit for purposes of testing for impairment.

In accordance with SFAS No. 142, “Goodwill and Other Intangible Assets,” we do not amortize goodwill and other intangible assets that are deemed to have indefinite lives. We review goodwill and indefinite lived manufacturer franchise rights for impairment annually on October 1<sup>st</sup> of each year, or more often if events or circumstances indicate that impairment may have occurred. We are subject to financial statement risk to the extent that intangible assets become impaired due to decreases in the related fair market value of our underlying businesses.

#### *Derivative Instruments and Hedging Activities*

We utilize derivative financial instruments to manage our capital structure. The types of risks hedged are those relating to the variability of cash flows and changes in the fair value of our financial instruments caused by movements in interest rates. We document our risk management strategy and assess hedge effectiveness at the inception and during the term of each hedge. Derivatives are reported at fair value on the accompanying Consolidated Balance Sheets.

The changes in fair value of the effective portion of “cash flow” hedges are reported as a component of accumulated other comprehensive income (loss). Amounts in accumulated other comprehensive income (loss) are reclassified to interest expense to the extent the hedge becomes ineffective. The change in fair value of “fair value” hedges are recorded as a component of interest expense. Changes in the fair value of the associated hedged exposures are also recorded as a component of interest expense.

Measurements of hedge effectiveness are based on comparisons between the gains or losses of the actual interest rate swaps and the gains or losses of hypothetical interest rate swaps, which are designed to reflect the critical terms of the defined hedged exposures. Ineffective portions of these interest rate swaps are reported as a component of interest expense in the accompanying Consolidated Statements of Income. We recognized minor ineffectiveness during the three months ended March 31, 2007, and no ineffectiveness during the three months ended March 31, 2006.

#### *Statements of Cash Flows —*

Borrowings and repayments of floor plan notes payable to a party unaffiliated with the manufacturer of a particular new vehicle, and all floor plan notes payable relating to pre-owned vehicles, are classified as financing activities on the accompanying Condensed Consolidated Statements of Cash Flows with borrowings reflected separately from repayments. The net change in floor plan notes payable to a party affiliated with the manufacturer of a particular new vehicle is classified as an operating activity on the Condensed Consolidated Statements of Cash Flows.

In November 2006, General Motors sold 51% of their financing subsidiary, General Motors Acceptance Corporation (“GMAC”), to an investment consortium led by Cerberus FIM Investors, LLC. Prior to this transaction, the net change in

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floor plan notes payable to GMAC was classified as an operating activity on the accompanying Consolidated Statements of Cash Flows as borrowings and repayments of floor plan notes payable at our General Motors dealerships were with a manufacturer affiliated lender. Floor plan notes payable related to vehicles financed prior to this change in control will continue to be classified as Floorplan notes payable—manufacturer affiliated on the accompanying Consolidated Balance Sheets, with subsequent repayments classified as an operating activity, since these GMAC borrowings occurred while General Motors had control of GMAC. Following the sale of GMAC, General Motors no longer has a majority ownership of or controls GMAC, and therefore, beginning in December 2006, floor plan notes payable related to vehicles financed after this change in control are classified as Floorplan notes payable—non-manufacturer affiliated on the accompanying Consolidated Balance Sheets, with the related borrowings and repayments presented separately as financing activities on the accompanying Consolidated Statements of Cash Flows.

Loaner vehicle activity accounts for a significant portion of Prepaid and Other Current Assets on the accompanying Consolidated Statements of Cash Flows. We acquire loaner vehicles through borrowings with manufacturer affiliated lenders, therefore we classify the acquisition of loaner vehicles and the related borrowings as an operating activity in Prepaid and Other Current Assets in the accompanying Consolidated Statements of Cash Flows. When loaner vehicles are taken out of loaner status they are transferred to used vehicle inventory, which is reflected as a non-cash transfer in the accompanying Consolidated Statements of Cash Flows. The cash outflow to repay loaner vehicle loans are reflected in Prepaid and Other Current Assets and the cash inflow upon the sale of a loaner vehicle is reflected in Inventory on the accompanying Consolidated Statements of Cash Flows. Therefore, the net impact of loaner vehicle activity on the accompanying Consolidated Statements of Cash Flows is a cash outflow in Prepaid and Other Current Assets and a cash inflow in Inventory.

Construction reimbursements from third parties in connection with sale-leaseback agreements for the construction of new dealership facilities or leasehold improvements to our dealership facilities are included in investing activities in the accompanying Condensed Consolidated Statements of Cash Flows.

Proceeds from the sale of dealership facilities and the related real estate previously owned and subsequently leased back in connection with sale-leaseback agreements are reflected as financing activities in the accompanying Consolidated Statements of Cash Flows.

Externally financed capital expenditures include all expenditures that we have financed during the reporting period or intend to finance in future reporting periods through sale-leaseback transactions or mortgage financing. Internally financed capital expenditures include all capital expenditures which were paid using available cash and for which we do not intend to seek external financing.

Tax benefits related to share-based awards that are fully vested prior to the adoption of SFAS No. 123R are included as cash inflows from financing activities and cash outflows from operating activities on the accompanying Condensed Consolidated Statements of Cash Flows. Excess tax benefits related to share-based awards that are partially vested upon or granted after the adoption of SFAS No. 123R are included as cash inflows from financing activities and cash outflows from operating activities within the accompanying Condensed Consolidated Statements of Cash Flows.

Net proceeds from share-based payment arrangements include payments from employees upon the exercise of stock options, net of payments of employee income taxes in connection with net share settlements of share-based awards. Net share settlements of share-based awards result in (i) the issuance of shares of our common stock with a value equal to the employee’s intrinsic value and (ii) the payment of the income tax on behalf of the employee in lieu of issuing additional shares of common stock.

#### *Recent Accounting Pronouncements*

In June 2006, the FASB issued FASB Interpretation (“FIN”) No. 48 “Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement No. 109”. FIN 48 establishes a single model to address accounting for uncertain tax positions. FIN 48 clarifies the accounting for income taxes by prescribing a minimum recognition threshold a tax position is required to meet before being recognized as well as providing guidance on derecognition, measurement classification, interest and penalties and disclosure.

We adopted the provisions of FIN 48 effective January 1, 2007 and recognized no material adjustment in our liability for unrecognized tax benefits. As of January 1, 2007, we had \$3.6 million of total unrecognized tax benefits. Of that amount \$2.4 million, net of the federal effect, if recognized would favorably impact our effective rate in future periods. We do not expect these amounts to change materially in the next twelve months.

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In connection with the adoption of FIN 48, we analyzed our filing positions in all of the federal and state jurisdictions where we are required to file tax returns, as well as all open years in these jurisdictions. We have uncertain tax positions in certain of the states in which we do business; however, none of the states individually constitute a “major” tax jurisdiction, as defined. Years subject to audit range as far back as 2003. The Internal Revenue Service commenced examinations of our consolidated federal returns for the years 2004 and 2005 in the first quarter of 2007, and certain of our subsidiary returns for 2003, 2004 and 2005 in the fourth quarter 2006. In addition, we have various state audits for years 2003, 2004 and 2005, being performed as of March 31, 2007. To date, no material adjustments have been proposed and we do not anticipate that these examinations will result in a material change to our financial position or results of operations.

We recognize interest and penalties related to income tax matters in income tax expense. As of March 31, 2007, we had approximately \$0.7 million of accrued interest related to uncertain tax positions and no accrual for penalties. We do not expect the amount of accrued interest to change materially in the next twelve months.

### 3. INVENTORIES

Inventories consist of the following:

(In thousands)	As of	
	March 31, 2007	December 31, 2006
New vehicles	\$ 606,054	\$ 616,275
Used vehicles	130,767	115,927
Parts and accessories	43,670	43,111
Total inventories	<u>\$ 780,491</u>	<u>\$ 775,313</u>

The lower of cost or market reserves reduced total inventory cost by \$4.9 million and \$4.8 million as of March 31, 2007 and December 31, 2006, respectively. In addition to the inventories shown above, we have \$4.8 million of inventory as of December 31, 2006, classified as Assets Held for Sale on the accompanying Condensed Consolidated Balance Sheets as it is associated with franchises held for sale. There was no inventory classified as Assets Held for Sale as of March 31, 2007.

### 4. GOODWILL AND MANUFACTURER FRANCHISE RIGHTS

During the three months ended March 31, 2007, we sold two franchises (two dealership locations) resulting in the removal of approximately \$1.0 million of Goodwill and approximately \$2.3 million of manufacturer franchise rights from our Condensed Consolidated Balance Sheets. Manufacturer franchise rights totaled \$37.2 million and \$39.5 million as of March 31, 2007 and December 31, 2006, respectively, and are included in Other Long-term Assets on the accompanying Condensed Consolidated Balance Sheets.

### 5. ASSETS AND LIABILITIES HELD FOR SALE

Assets and liabilities classified as held for sale include (i) assets and liabilities associated with discontinued operations held for sale at each balance sheet date, and (ii) costs of completed construction projects and related reimbursements during the construction period associated with pending sale-leaseback transactions.

As of December 31, 2006, assets and liabilities associated with discontinued operations included two franchises (two dealership locations) in Arkansas. During the three months ended March 31, 2007, we sold the two franchises (two dealership locations) that had been held for sale as of December 31, 2006. There were no assets or liabilities associated with discontinued operations as of March 31, 2007.

Assets associated with pending sale-leaseback transactions as of March 31, 2007, and December 31, 2006, include three and two completed construction projects, respectively, totaling \$11.3 million and \$9.7 million, respectively. As of March 31, 2007, we had not received any reimbursements associated with these sale-leaseback transactions. We expect to expect to receive final reimbursement during 2007.

Assets held for sale include real estate not currently used in our operations totaling \$11.1 million as of March 31, 2007 and December 31, 2006.

A summary of assets and liabilities held for sale is as follows:

(In thousands)	As of	
	March 31, 2007	December 31, 2006
<b>Assets:</b>		
Inventories	\$ —	\$ 4,808
Property and equipment, net	22,359	21,139
Total assets	<u>22,359</u>	<u>25,947</u>
<b>Liabilities:</b>		
Floor plan notes payable	—	3,887
Total liabilities	<u>—</u>	<u>3,887</u>
Net assets held for sale	<u>\$ 22,359</u>	<u>\$ 22,060</u>

Included in Prepaid and Other Current Assets on the accompanying Condensed Consolidated Balance Sheets are costs associated with construction projects, which we intend to sell through sale-leaseback transactions but have not been completed, and therefore are not available for sale. In connection with these construction projects, we have entered into sale-leaseback agreements whereby an unaffiliated third party purchased the land and is reimbursing us for the cost of construction of dealership facilities being constructed on the land. We capitalize the cost of the construction during the construction period and record a corresponding liability equal to the amount of the reimbursed funds. Upon completion of the construction and receipt of the final reimbursement, we remove the cost of construction and the related liability from our Condensed Consolidated Balance Sheets. The book value of assets associated with construction projects that have not been completed as of March 31, 2007 and December 31, 2006, totaled \$4.7 million and \$4.4 million, respectively. As of March 31, 2007 and December 31, 2006, there were no liabilities associated with these construction projects.

### 6. LONG-TERM DEBT

Long-term debt consists of the following:

(In thousands)	As of	
	March 31, 2007	December 31, 2006
9% Senior Subordinated Notes due 2012	\$ 11,908	\$ 250,000
8% Senior Subordinated Notes due 2014 (\$179.4 million and \$182.4 million face value, respectively, net of hedging activity of \$7,455 and \$7,848, respectively)	171,975	174,582
7.625% Senior Subordinated Notes due 2017	150,000	—
3% Senior Subordinated Convertible Notes Due 2012	115,000	—
Mortgage notes payable	26,587	26,837
Notes payable collateralized by loaner vehicles	23,000	21,279
Capital lease obligations	3,426	3,552
Other notes payable	825	904
	502,721	477,154
Less—current portion	(24,841)	(23,144)
Long-term debt	<u>\$ 477,880</u>	<u>\$ 454,010</u>

#### *Long-term Debt Refinancing*

During the three months ended March 31, 2007, we initiated a refinancing of our long-term debt which included (i) a cash tender offer for all of our \$250.0 million 9% Senior Subordinated Notes due 2012 (“9% Notes”), (ii) the issuance of \$115.0 million of 3% Senior Subordinated Convertible Notes due 2012 (“3% Notes”), which have an initial conversion price of \$33.99 and (iii) the issuance of \$150.0 million of 7.625% Senior Subordinated Notes due 2017. As of March 31, 2007, we had completed the issuance of our 3% Notes and 7.625% Notes and repurchased \$238.1 million of our 9% Notes through our tender offer. We plan to call the remaining \$11.9 million of our 9% Notes on the first call date of June 15, 2007. Upon completion of our long-term debt refinancing, we expect our annual interest expense will decrease by approximately \$7.9 million.

During the three months ended March 31, 2007, we recognized a \$17.7 million loss on the extinguishment of \$238.1 million of our 9% Notes and \$3.0 million of our 8% Notes. Included in the \$17.7 million loss are (i) a \$12.4 million premium on the repurchase of the 9% Notes and 8% Notes, (ii) \$5.2 million of costs associated with a pro-rata write-off of

unamortized debt issuance costs associated with the 9% Notes and 8% Notes, and (iii) \$0.1 million of costs associated with a pro-rata write-off of the unamortized value of our terminated fair value swap associated with the 8% Notes.

In connection with the sale of our 3% Notes, we entered into convertible note hedge transactions with respect to our common stock, with Goldman, Sachs & Co. and Deutsche Bank AG, London Branch (collectively, the “counterparties”). The convertible note hedge transactions will cover, subject to customary anti-dilution adjustments, approximately 3.4 million shares of common stock at a strike price of \$33.99 per share of common stock, which corresponds to the initial conversion price of the 3% Notes.

We also entered into separate warrant transactions whereby we sold to the counterparties warrants to acquire, subject to customary anti-dilution adjustments, approximately 3.4 million shares of our common stock at a strike price of \$45.09 per share. On exercise of the warrants, we have the option to deliver cash or common stock equal to the difference between the then market price and strike price.

The convertible note hedge and warrant transactions are separate contracts and are not part of the terms of the 3% Notes and will not affect the holders’ rights under the 3% Notes. Holders of the 3% Notes will not have any rights with respect to the convertible note hedge and warrant transactions. The convertible hedge and warrant transactions will generally have the effect of increasing the conversion price of the 3% Notes to \$45.09, which is a 62.50% premium over the market price of our common stock at the time of pricing. The convertible note hedge transactions are expected to offset the potential dilution upon conversion of the 3% Notes in the event that the market value per share of our common stock at the time of exercise is greater than the strike price of the convertible note hedge transactions.

The warrant transactions and the underlying shares of common stock issuable upon exercise of the warrants have not been registered under the Securities Act or the securities laws of any other jurisdiction and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements.

#### *3% Senior Subordinated Convertible Notes due 2012—*

On March 16, 2007, we issued \$115.0 million in aggregate principal amount of our 3% Notes, receiving net proceeds of \$111.4 million. The sale of the notes was exempt from registration pursuant to Rule 144A under the Securities Act of 1933. During the second quarter of 2007, we expect to file a shelf registration statement with the Securities and Exchange Commission covering the resale of the notes and the underlying common stock. The costs related to the issuance of these notes were capitalized and are being amortized to other interest expense over the term of the notes. We pay interest on these notes on March 15 and September 15 of each year until their maturity on September 15, 2012. If and when these notes are converted, we will pay cash for the principal amount of each note and, if applicable, shares of our common stock based on a daily conversion value calculated on a proportionate basis for each volume weighted average price (“VWAP”) trading day (as defined in the notes) and the relevant 30 VWAP trading day observation period. The initial conversion rate for the notes will be 29.4172 shares of common stock per \$1,000 principal amount of notes, which is equivalent to an initial conversion price of \$33.99 per share. The conversion rate will be subject to adjustment in some events but will not be adjusted for accrued interest.

Our 3% Notes are guaranteed by all our wholly-owned current subsidiaries and all of our future domestic subsidiaries that have outstanding, incur or guarantee any other indebtedness. The terms of our 3% Notes, in certain circumstances, restrict our ability to, among other things, sell all or substantially all of our assets.



On March 26, 2007, we issued \$150.0 million of our 7.625% Notes, receiving net proceeds of \$146.3 million. The sale of the notes was exempt from registration pursuant to Rule 144A and Regulation S under the Securities Act of 1933, as amended. During the second quarter of 2007, we expect to file a registration statement with the Securities and Exchange Commission in connection with an exchange offer to exchange the notes for new notes with substantially identical terms that are registered under the Securities Act of 1933 and, therefore, will generally be freely transferable. The costs related to the issuance of these notes were capitalized and are being amortized to other interest expense over the term of the notes. We pay interest on these notes on March 15 and September 15 of each year until their maturity on March 15, 2017. At any time during the term of the 7.625% Notes we may, at our option, choose to redeem all or a portion of these notes at a price equal to 100% of their principal amount plus the applicable premium set forth in the 7.625% Notes indenture. On or before March 15, 2010, we may, at our option, use the net proceeds of one or more equity offerings to redeem up to 35% of the aggregate principal amount of these notes at a redemption price equal to 107.625% of their principal amount plus accrued and unpaid interest thereon.

Our 7.625% Notes are guaranteed by all of our wholly-owned current subsidiaries and all of our future domestic subsidiaries that have outstanding, incur or guarantee any other indebtedness. The terms of our 7.625% Notes, in certain circumstances, restrict our ability to, among other things, incur additional indebtedness, pay dividends, repurchase our common stock and merge or sell all or substantially all our assets.

## 7. DERIVATIVE INSTRUMENTS AND HEDGING ACTIVITY

In November 2006, we entered into an interest rate swap agreement with a notional principal amount of \$150.0 million as a hedge against the changes in interest rates of our variable rate floor plan notes payable for a period of two years beginning in November 2006. The swap agreement was designated and qualifies as a cash flow hedge of future changes in interest rates of our variable rate floor plan notes payable and is not expected to contain any ineffectiveness. As of March 31, 2007, the swap agreement had a fair value of \$0.4 million, which was included in Other Long-Term Liabilities on the accompanying Condensed Consolidated Balance Sheet.

Three of our interest rate swap agreements terminated in March 2006, which resulted in a cash payment of \$13.7 million, which equaled the fair market value of the swap agreements. Included in Accumulated Other Comprehensive Loss on our Condensed Consolidated Balance Sheet as of March 31, 2007, was \$3.1 million (\$2.0 million, net of tax) of unrecognized amortization related to our two terminated cash flow swaps, which are being amortized through March 2014 as a component of Floor Plan Interest Expense on the accompanying Condensed Consolidated Statements of Income. Amortization of these terminated cash flow swaps will total \$0.9 million for the year ended December 31, 2007. In addition, included as a reduction to our 8% Notes as of March 31, 2007, was \$7.5 million of unrecognized amortization related to our terminated fair value swap, which is being amortized through March 2014 as a component of Other Interest Expense on the accompanying Condensed Consolidated Statements of Income. Amortization of this terminated fair value swap will total \$1.1 million for the year ended December 31, 2007.

We have an interest rate swap with a current notional principal amount of \$14.0 million. The swap was designed to provide a hedge against changes in interest rates of our variable rate mortgage notes payable through maturity in June 2011. This interest rate swap qualifies for cash flow hedge accounting treatment and will contain minor ineffectiveness. Under the terms of the swap agreement, we make payments based on a fixed rate of 6.08% and receive a variable rate cash flows based on one-month LIBOR. As of March 31, 2007 and December 31, 2006, the swap agreement had a fair value of \$0.3 million, which was included in Other Long-Term Assets on the accompanying Condensed Consolidated Balance Sheets.

## 8. COMPREHENSIVE INCOME

The following table provides a reconciliation of net income to comprehensive income:

(In thousands)	For the Three Months Ended March 31,	
	2007	2006
Net income	\$ 433	\$ 12,553
Other comprehensive income:		
Change in fair value of cash flow swaps	(351)	2,019
Amortization of expired cash flow swaps	224	80
Income tax benefit (expense) associated with cash flow swaps	78	(787)
Comprehensive income	<u>\$ 384</u>	<u>\$ 13,865</u>

## 9. DISCONTINUED OPERATIONS

During the three months ended March 31, 2007, we sold two franchises (two dealership locations). There were no franchises pending disposition as of March 31, 2007. The accompanying Condensed Consolidated Statements of Income for the three months ended March 31, 2006, have been reclassified to reflect the status of our discontinued operations as of March 31, 2007.

The following table provides further information regarding our discontinued operations as of March 31, 2007, and includes the results of businesses sold prior to March 31, 2007:

(Dollars in thousands)

	2007	2006
<b>Franchises:</b>		
Mid-line Domestic	—	6
Mid-line Import	—	2
Value	2	3
Luxury	—	1
<b>Total</b>	<b>2</b>	<b>12</b>
<b>Ancillary Businesses</b>		
	—	1
Revenues	\$ 1,396	\$ 51,439
Cost of sales	1,478	43,269
Gross profit	(82)	8,170
Operating expenses	964	9,435
Loss from operations	(1,046)	(1,265)
Other expense, net	(20)	(607)
Gain (loss) on disposition of discontinued operations, net	(2,001)	53
Loss before income taxes	(3,067)	(1,819)
Income tax benefit	1,091	682
Discontinued operations, net of tax	\$ (1,976)	\$ (1,137)

## 10. SUPPLEMENTAL CASH FLOW INFORMATION

During the three months ended March 31, 2007 and 2006, we made interest payments, net of amounts capitalized, totaling \$26.6 million and \$18.3 million, respectively. During the three months ended March 31, 2006, we received \$0.5 million of proceeds associated with our interest rate swap agreement that was entered into in December 2003 in connection with the issuance of our 8% Senior Subordinated Notes due 2014.

During the three months ended March 31, 2007 and 2006, we made income tax payments totaling \$5.2 million and \$5.5 million, respectively.

## 11. COMMITMENTS AND CONTINGENCIES

A significant portion of our vehicle business involves the sale of vehicles, parts or vehicles composed of parts that are manufactured outside the United States of America. As a result, our operations are subject to customary risks of importing merchandise, including fluctuations in the relative values of currencies, import duties, exchange controls, trade restrictions, work stoppages and general political and socio-economic conditions in foreign countries. The United States of America or the countries from which our products are imported may, from time to time, impose new quotas, duties, tariffs or other restrictions, or adjust presently prevailing quotas, duties or tariffs, which may affect our operations and our ability to purchase imported vehicles and/or parts at reasonable prices.

Manufacturers may direct us to implement costly capital improvements to dealerships as a condition upon entering into franchise agreements with them. Manufacturers also typically require that their franchises meet specific standards of appearance. These factors, either alone or in combination, could cause us to divert our financial resources to capital projects from uses that management believes may be of higher long-term value, such as acquisitions.

Substantially all of our facilities are subject to federal, state and local provisions regarding the discharge of materials into the environment. Compliance with these provisions has not had, nor do we expect such compliance to have, any material effect upon our capital expenditures, net earnings, financial condition, liquidity or competitive position. We believe that our current practices and procedures for the control and disposition of such materials comply with applicable federal, state and local requirements.

From time to time, we and our dealerships are named in claims involving the manufacture and sale or lease of motor vehicles, including but not limited to the charging of administrative fees, the operation of dealerships, contractual disputes and other matters arising in the ordinary course of our business. With respect to certain of these claims, the sellers of our acquired dealerships have indemnified us. We do not expect that any potential liability from these claims will materially affect our financial condition, liquidity, results of operations or financial statement disclosures.

Our dealerships hold dealer agreements with a number of vehicle manufacturers. In accordance with the individual dealer agreements, each dealership is subject to certain rights and restrictions typical of the industry. The ability of the manufacturers to influence the operations of the dealerships or the loss of a dealer agreement could have a negative impact on our operating results.

## 12. STOCK-BASED COMPENSATION

A summary of options outstanding and exercisable under the Plans as of March 31, 2007, and changes during the three months then ended is presented below:

	Stock Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value*
Options outstanding - December 31, 2006	1,528,179	\$ 14.57		
Granted	—	\$ —		
Exercised	(239,427)	\$ 16.34		
Expired / Forfeited	(11,669)	\$ 14.01		
Options outstanding - March 31, 2007	1,277,083	\$ 14.26	6.3	\$ 17,866,391

Options exercisable - March 31, 2007	<u>1,037,949</u>	\$	14.23	6.1	\$	14,552,045
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\* Based on the closing price of our common stock on March 30, 2007, which was \$28.25 per share.

Net cash received from option exercises for the three months ended March 31, 2007 was \$0.3 million. The actual intrinsic value of options exercised during the three months ended March 31, 2007 was \$2.6 million. The actual tax benefit realized for the tax deductions from option exercises totaled \$1.0 million for the three months ended March 31, 2007.

A summary of performance share units and restricted share units as of March 31, 2007, and changes during the three months ended is presented below:

	Shares	Weighted Average Grant Date Fair Value
Performance Share Units - December 31, 2006	468,125	\$ 20.15
Granted	199,000	\$ 26.98
Performance estimate	—	\$ —
Vested	—	\$ —
Forfeited (including 2,188 of performance estimates)	(10,938)	\$ 20.09
Performance Share Units - March 31, 2007*	<u>656,187</u>	\$ 22.22

\* Includes an estimate of 91,437 out of a maximum of 292,600 issuable upon attaining certain performance metrics

	Shares	Weighted Average Grant Date Fair Value
Restricted Share Units - December 31, 2006	29,728	\$ 21.65
Granted	21,409	\$ 26.98
Vested	—	\$ —
Forfeited	(2,500)	\$ 22.98
Restricted Share Units - March 31, 2007	<u>48,637</u>	\$ 23.93

Each performance share unit provides an opportunity for the employee to receive a number of shares of our common stock based on our performance during a three year period as measured against objective performance goals as determined by the compensation committee of our board of directors. The actual number of shares earned may range from 0% to 180% of the target number of shares depending upon achievement of the performance goals.

### 13. CONDENSED CONSOLIDATING FINANCIAL INFORMATION

Our Committed Credit Facility is guaranteed by all of our current subsidiaries, other than our current Toyota and Lexus dealership subsidiaries, and all of our future domestic restricted subsidiaries, other than our future Toyota and Lexus dealership facilities. The following tables set forth, on a condensed consolidating basis, our balance sheets, statements of income and statements of cash flows, of our guarantor and non-guarantor subsidiaries for all financial statement periods presented in our interim condensed consolidated financial statements.

#### Condensed Consolidating Balance Sheet As of March 31, 2007 (In thousands)

	Parent Company	Guarantor Subsidiaries	Non- guarantor Subsidiaries	Eliminations	Condensed Consolidated
<b>ASSETS</b>					
Current assets:					
Cash and cash equivalents	\$ —	\$ 94,497	\$ —	\$ —	\$ 94,497
Inventories	—	724,200	56,291	—	780,491
Other current assets	—	291,556	48,765	—	340,321
Assets held for sale	—	22,359	—	—	22,359
Total current assets	—	1,132,612	105,056	—	1,237,668
Property and equipment, net	—	198,292	6,490	—	204,782
Goodwill	—	393,819	53,202	—	447,021
Other long-term assets	—	88,467	274	—	88,741
Investment in subsidiaries	569,358	93,667	—	(663,025)	—
Total assets	<u>\$ 569,358</u>	<u>\$ 1,906,857</u>	<u>\$ 165,022</u>	<u>\$ (663,025)</u>	<u>\$ 1,978,212</u>

#### LIABILITIES AND SHAREHOLDERS' EQUITY

Current liabilities:					
Floor plan notes payable—manufacturer affiliated	\$ —	\$ 225,676	\$ —	\$ —	\$ 225,676
Floor plan notes payable—non-manufacturer affiliated	—	399,960	45,802	—	445,762
Other current liabilities	—	152,976	25,513	—	178,489
Total current liabilities	—	778,612	71,315	—	849,927
Long-term debt	—	477,841	39	—	477,880

Other long-term liabilities	—	81,046	1	—	81,047
Shareholders' equity	569,358	569,358	93,667	(663,025)	569,358
Total liabilities and shareholders' equity	<u>\$ 569,358</u>	<u>\$ 1,906,857</u>	<u>\$ 165,022</u>	<u>\$ (663,025)</u>	<u>\$ 1,978,212</u>

**Condensed Consolidating Balance Sheet**  
**As of December 31, 2006**  
**(In thousands)**

	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Condensed Consolidated</u>
<b>ASSETS</b>					
Current assets:					
Cash and cash equivalents	\$ —	\$ 129,170	\$ —	\$ —	\$ 129,170
Inventories	—	719,350	55,963	—	775,313
Other current assets	—	311,134	51,500	—	362,634
Assets held for sale	—	25,947	—	—	25,947
Total current assets	—	1,185,601	107,463	—	1,293,064
Property and equipment, net	—	196,017	6,567	—	202,584
Goodwill	—	394,794	53,202	—	447,996
Other assets	—	86,919	274	—	87,193
Investment in subsidiaries	611,833	83,198	—	(695,031)	—
Total assets	<u>\$ 611,833</u>	<u>\$ 1,946,529</u>	<u>\$ 167,506</u>	<u>\$ (695,031)</u>	<u>\$ 2,030,837</u>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>					
Current Liabilities:					
Floor plan notes payable—manufacturer affiliated	\$ —	\$ 319,896	\$ —	\$ —	\$ 319,896
Floor plan notes payable—non-manufacturer affiliated	—	330,026	50,855	—	380,881
Other current liabilities	—	142,983	33,408	—	176,391
Liabilities associated with assets held for sale	—	3,887	—	—	3,887
Total current liabilities	—	796,792	84,263	—	881,055
Long-term debt	—	453,966	44	—	454,010
Other liabilities	—	83,938	1	—	83,939
Shareholders' equity	611,833	611,833	83,198	(695,031)	611,833
Total liabilities and shareholders' equity	<u>\$ 611,833</u>	<u>\$ 1,946,529</u>	<u>\$ 167,506</u>	<u>\$ (695,031)</u>	<u>\$ 2,030,837</u>

**Condensed Consolidating Statement of Income**  
**For the Three Months Ended March 31, 2007**  
**(In thousands)**

	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Condensed Consolidated</u>
Revenues	\$ —	\$ 1,246,436	\$ 173,084	\$ (3,950)	\$ 1,415,570
Cost of sales	—	1,050,645	144,812	(3,950)	1,191,507
Gross profit	—	195,791	28,272	—	224,063
Operating expenses:					
Selling, general and administrative	—	156,724	19,662	—	176,386
Depreciation and amortization	—	4,880	448	—	5,328
Income from operations	—	34,187	8,162	—	42,349
Other income (expense):					
Floor plan interest expense	—	(10,470)	(746)	—	(11,216)
Other interest expense	—	(9,886)	(1,900)	—	(11,786)
Other income (expense), net	—	(15,727)	247	—	(15,480)
Equity in earnings of subsidiaries	433	3,590	—	(4,023)	—
Total other expense, net	<u>433</u>	<u>(32,493)</u>	<u>(2,399)</u>	<u>(4,023)</u>	<u>(38,482)</u>
Income before income taxes	433	1,694	5,763	(4,023)	3,867
Income tax (benefit) expense	—	(715)	2,173	—	1,458
Income from continuing operations	<u>433</u>	<u>2,409</u>	<u>3,590</u>	<u>(4,023)</u>	<u>2,409</u>
Discontinued operations, net of tax	—	(1,976)	—	—	(1,976)

Net income	\$ 433	\$ 433	\$ 3,590	\$ (4,023)	\$ 433
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**Condensed Consolidating Statement of Income**  
**For the Three Months Ended March 31, 2006**  
(In thousands)

	Parent Company	Guarantor Subsidiaries	Non- guarantor Subsidiaries	Eliminations	Condensed Consolidated
Revenues	\$ —	\$ 1,207,724	\$ 159,840	\$ (1,813)	\$ 1,365,751
Cost of sales	—	1,022,814	135,831	(1,813)	1,156,832
Gross profit	—	184,910	24,009	—	208,919
Operating expenses:					
Selling, general and administrative	—	145,623	17,668	—	163,291
Depreciation and amortization	—	4,513	442	—	4,955
Income from operations	—	34,774	5,899	—	40,673
Other income (expense):					
Floor plan interest expense	—	(8,282)	(655)	—	(8,937)
Other interest expense	—	(9,429)	(1,474)	—	(10,903)
Other income, net	—	986	85	—	1,071
Equity in earnings of subsidiaries	12,553	2,409	—	(14,962)	—
Total other expense, net	12,553	(14,316)	(2,044)	(14,962)	(18,769)
Income before income taxes	12,553	20,458	3,855	(14,962)	21,904
Income tax expense	—	6,768	1,446	—	8,214
Income from continuing operations	12,553	13,690	2,409	(14,962)	13,690
Discontinued operations, net of tax	—	(1,137)	—	—	(1,137)
Net income	\$ 12,553	\$ 12,553	\$ 2,409	\$ (14,962)	\$ 12,553

**Condensed Consolidating Statement of Cash Flows**  
**For the Three Months Ended March 31, 2007**  
(In thousands)

	Parent Company	Guarantor Subsidiaries	Non- guarantor Subsidiaries	Eliminations	Condensed Consolidated
Net cash (used in) provided by operating activities	\$ —	\$ (76,477)	\$ 32,117	\$ —	\$ (44,360)
Cash flow from investing activities:					
Capital expenditures	—	(12,537)	(380)	—	(12,917)
Other investing activities	—	6,551	11	—	6,562
Net cash used in investing activities	—	(5,986)	(369)	—	(6,355)
Cash flow from financing activities:					
Floor Plan Borrowings — non-manufacturer affiliated	—	553,361	109,641	—	663,002
Floor Plan Repayments — non-manufacturer affiliated	—	(487,313)	(114,695)	—	(602,008)
Payment of dividends	—	(6,708)	—	—	(6,708)
Proceeds from borrowings	—	265,000	—	—	265,000
Payments of debt issuance costs	—	(7,250)	—	—	(7,250)
Sale-leaseback agreements	—	3,181	—	—	3,181
Repayments of debt	—	(253,914)	(5)	—	(253,919)
Intercompany financing, net	—	26,689	(26,689)	—	—
Other financing activities	—	(45,256)	—	—	(45,256)
Net cash provided by (used in) financing activities	—	47,790	(31,748)	—	16,042
Net decrease in cash and cash equivalents	—	(34,673)	—	—	(34,673)
Cash and cash equivalents, beginning of period	—	129,170	—	—	129,170
Cash and cash equivalents, end of period	\$ —	\$ 94,497	\$ —	\$ —	\$ 94,497

**Condensed Consolidating Statement of Cash Flows**  
**For the Three Months Ended March 31, 2006**  
(In thousands)

	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Condensed Consolidated</u>
Net cash provided by operating activities	\$ —	\$ 71,459	\$ 2,227	\$ —	\$ 73,686
Cash flow from investing activities:					
Capital expenditures	—	(11,285)	(659)	—	(11,944)
Other investing activities	—	8,746	—	—	8,746
Net cash used in investing activities	—	(2,539)	(659)	—	(3,198)
Cash flow from financing activities:					
Floor Plan Borrowings — non-manufacturer Affiliated	—	575,672	101,577	—	677,249
Floor Plan Repayments — non-manufacturer affiliated	—	(643,929)	(103,757)	—	(747,686)
Proceeds from borrowings	—	902	—	—	902
Repayments of debt	—	(1,547)	(7)	—	(1,554)
Intercompany financing	—	(619)	619	—	—
Other financing activities	—	3,281	—	—	3,281
Net cash used in financing activities	—	(66,240)	(1,568)	—	(67,808)
Net increase in cash and cash equivalents	—	2,680	—	—	2,680
Cash and cash equivalents, beginning of period	—	57,194	—	—	57,194
Cash and cash equivalents, end of period	<u>\$ —</u>	<u>\$ 59,874</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 59,874</u>

#### 14. SUBSEQUENT EVENTS

During the second quarter of 2007, we completed the acquisition of three franchises (three dealership locations) representing annual revenues of approximately \$144.0 million for approximately \$29.0 million (including \$10.7 million borrowed from our floor plan facility for the purchase of inventory).

On May 4, 2007, our board of directors declared a \$0.20 per share cash dividend. This was the fourth consecutive quarter that a \$0.20 per share dividend was paid.

#### REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of Asbury Automotive Group, Inc.:

We have reviewed the accompanying condensed consolidated balance sheet of Asbury Automotive Group, Inc. and subsidiaries (the "Company") as of March 31, 2007, and the related condensed consolidated statements of income and cash flow for the three-month periods ended March 31, 2007 and 2006. These interim financial statements are the responsibility of the Company's management.

We conducted our reviews in accordance with standards of the Public Company Accounting Oversight Board (United States). A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the Public Company Accounting Oversight Board (United States), the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our reviews, we are not aware of any material modifications that should be made to such condensed consolidated interim financial statements for them to be in conformity with accounting principles generally accepted in the United States of America.

We have previously audited, in accordance with standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheet of the Company as of December 31, 2006, and the related consolidated statements of income, shareholders' equity, and cash flows for the year then ended (not presented herein); and in our report dated March 15, 2007, we expressed an unqualified opinion on those consolidated financial statements. In our opinion, the information set forth in the accompanying condensed consolidated balance sheet as of December 31, 2006 is fairly stated, in all material respects, in relation to the consolidated balance sheet from which it has been derived.

/s/ DELOITTE & TOUCHE LLP

New York, New York  
May 8, 2007

We are one of the largest automotive retailers in the United States operating 112 franchises (85 dealership locations) in 21 metropolitan markets within 10 states as of March 31, 2007. We offer an extensive range of automotive products and services, including new and used vehicles, vehicle maintenance, replacement parts, collision repair services, and financing, insurance and service contracts. We offer 33 domestic and foreign brands of new vehicles, including four heavy truck brands. We also operate 23 collision repair centers that serve our markets.

Our revenues are derived primarily from four offerings: (i) the sale of new vehicles to individual retail customers (“new retail”) and the sale of new vehicles to commercial customers (“fleet”) (the terms “new retail” and “fleet” being collectively referred to as “new”); (ii) the sale of used vehicles to individual retail customers (“used retail”) and the sale of used vehicles to other dealers at auction (“wholesale”) (the terms “used retail” and “wholesale” being collectively referred to as “used”); (iii) maintenance and collision repair services and the sale of automotive parts (collectively referred to as “fixed operations”); and (iv) the arrangement of vehicle financing and the sale of various insurance and warranty products (collectively referred to as “F&I”). We evaluate the results of our new and used vehicle sales based on unit volumes and gross profit per vehicle retailed (“PVR”), our fixed operations based on aggregate gross profit, and F&I based on dealership generated F&I PVR. We assess the organic growth of our revenue and gross profit by comparing the year-to-year results of stores that we have operated for at least twelve full months.

Our gross profit margin varies with our revenue mix. The sale of new vehicles generally results in lower gross profit margin than used vehicle sales and fixed operations. As a result, when used vehicles and fixed operations revenue increases as a percentage of total revenue, we expect our overall gross profit margin to increase. We continue to implement new initiatives specifically designed to accelerate the growth of our high margin businesses and to leverage our selling, general and administrative (“SG&A”) expense structure.

SG&A expenses consist primarily of fixed and incentive-based compensation, advertising, rent, insurance, utilities and other customary operating expenses. A significant portion of our selling expenses is variable (such as sales commissions), or controllable expenses (such as advertising), generally allowing our cost structure to adapt in response to trends in our business. We evaluate commissions paid to salespeople as a percentage of retail vehicle gross profit and all other SG&A expenses in the aggregate as a percentage of total gross profit.

Our operations are generally subject to seasonal variations as we tend to generate more revenue and operating income in the second and third quarters than in the first and fourth quarters of the calendar year. Generally, the seasonal variations in our operations are caused by factors relating to weather conditions, changes in manufacturer incentive programs, model changeovers and consumer buying patterns, among other things. Over the past several years, certain automobile manufacturers have used a combination of vehicle pricing and financing incentive programs to generate increased customer demand for new vehicles. We anticipate that the manufacturers will continue to use these incentive programs to drive demand for their product offerings.

**Three Months Ended March 31, 2007, Compared to the Three Months Ended March 31, 2006**

	For the Three Months Ended March 31,					
	2007	% of Gross Profit	2006	% of Gross Profit	Increase (Decrease)	% Change
	(In thousands)					
REVENUES:						
New vehicle	\$ 824,451		\$ 809,657		\$ 14,794	2%
Used vehicle	378,147		352,415		25,732	7%
Parts, service and collision repair	174,288		168,529		5,759	3%
Finance and insurance, net	38,684		35,150		3,534	10%
Total revenues	1,415,570		1,365,751		49,819	4%
COST OF SALES	1,191,507		1,156,832		34,675	3%
GROSS PROFIT	224,063	100%	208,919	100%	15,144	7%
OPERATING EXPENSES:						
Selling, general and administrative	176,386	79%	163,291	79%	13,095	8%
Depreciation and amortization	5,328	2%	4,955	2%	373	8%
Income from operations	42,349	19%	40,673	19%	1,676	4%
OTHER INCOME (EXPENSE):						



Floor plan interest expense	(11,216)	(5)%	(8,937)	(4)%	2,279	26%
Other interest expense	(11,786)	(5)%	(10,903)	(5)%	883	8%
Interest income	1,965	1%	727	—%	1,238	170%
Loss on extinguishment of long-term debt	(17,737)	(8)%	—	—%	17,737	NM
Other income, net	292	—%	344	—%	(52)	(15)%
Total other expense, net	(38,482)	(17)%	(18,769)	(9)%	19,713	105%
Income before income taxes	3,867	2%	21,904	10%	(18,037)	(82)%
INCOME TAX EXPENSE	1,458	1%	8,214	3%	(6,756)	(82)%
INCOME FROM CONTINUING OPERATIONS	2,409	1%	13,690	7%	(11,281)	(82)%
DISCONTINUED OPERATIONS, net of tax	(1,976)	(1)%	(1,137)	(1)%	(839)	(74)%
NET INCOME	<u>\$ 433</u>	—%	<u>\$ 12,553</u>	6%	<u>\$ (12,120)</u>	(97)%
Income from continuing operations per common share- Diluted	<u>\$ 0.07</u>		<u>\$ 0.41</u>		<u>\$ (0.34)</u>	(83)%
Net income per common share- Diluted	<u>\$ 0.01</u>		<u>\$ 0.37</u>		<u>\$ (0.36)</u>	(97)%

Net income was \$0.4 million, or \$0.01 per diluted share, for the three months ended March 31, 2007, as compared to \$12.6 million, or \$0.37 per diluted share for the three months ended March 31, 2006. Net income for the three months ended March 31, 2007 includes \$11.1 million (net of tax) of costs associated with the refinancing of our long-term debt and \$1.8 million of costs associated with the retirement of our current CEO, Kenneth B. Gilman.

Income from continuing operations was \$2.4 million, or \$0.07 per diluted share, for the three months ended March 31, 2007, as compared to \$13.7 million, or \$0.41 per diluted share, for the three months ended March 31, 2006. Excluding the long-term debt refinancing and retirement of our current CEO mentioned above, adjusted income from continuing operations increased \$1.6 million (12%) to \$15.3 million for the three months ended March 31, 2007 from \$13.7 million for the three months ended March 31, 2006. We believe that excluding these items provides a more accurate representation of our year over year financial performance.

The 12% increase in adjusted income from continuing operations resulted from a balanced performance across all four of our business lines and continued improvement in the SG&A expense as a percent of gross profit. Our results during the three months ended March 31, 2007 include (i) a \$5.4 million (6%) increase in fixed operations gross profit and a \$3.7 million (12%) increase in used vehicle gross profit as a result of our continued focus on our high margin businesses; (ii) \$3.5 million (10%) increase in finance and insurance gross profit driven by improved dealership generated F&I PVR, partially

resulting from our re-negotiated contract with our primary service contract provider, (iii) a \$2.5 million (4%) increase in new vehicle gross profit as a result of increased demand for certain new luxury vehicles and improved gross profit margin on mid-line import vehicles as we capitalized on manufacturer incentive programs, and (iv) an 80 basis point improvement in adjusted SG&A expenses (excluding the retirement benefits discussed above) as a percentage of gross profit, as we continue to leverage our fixed overhead and organizational structure. These factors were partially offset by a 26% increase in floor plan interest expense principally resulting from a 65 basis point increase in short-term interest rates and higher inventories of heavy trucks.

Total revenues increased \$49.8 million (4%) to \$1.4 billion for the three months ended March 31, 2007. The increase in total revenues was a result of a \$25.7 million (7%) increase in used vehicle revenue and a \$14.8 million (2%), increase in new vehicle revenue.

Total gross profit increased \$15.2 million (7%), to \$224.1 million for the three months ended March 31, 2007, from \$208.9 million for the three months ended March 31, 2006. The increase in total gross profit was a result of strong performances across all of our business lines, in particular our higher margin fixed operations and F&I businesses, which contributed to a 50 basis point increase in our total gross profit margin.

New Vehicle —	For the Three Months Ended March 31,				Increase (Decrease)	% Change			
	2007		2006						
(In thousands, except for unit and PVR data)									
Revenue:									
New retail revenue—same store(1)									
Luxury	\$	264,958	34%	\$	248,221	33%	\$	16,737	7%
Mid-line import		320,005	42%		317,170	42%		2,835	1%
Mid-line domestic		118,026	15%		122,029	16%		(4,003)	(3)%
Value		10,594	1%		10,252	1%		342	3%
Total passenger vehicle retail revenue- same store		713,583			697,672			15,911	2%
Heavy trucks		58,730	8%		63,135	8%		(4,405)	(7)%
Total new retail revenue—same store(1)		772,313	100%		760,807	100%		11,506	2%
New retail revenue—acquisitions		1,167			—				
Total new retail revenues		773,480			760,807			12,673	2%
Fleet revenue—same store(1)		50,971			48,850			2,121	4%
Fleet revenue—acquisitions		—			—				
Total fleet revenue		50,971			48,850			2,121	4%
New vehicle revenue, as reported	\$	824,451		\$	809,657		\$	14,794	2%
New retail units:									
New retail units—same store(1)									
Luxury		5,519	23%		5,507	23%		12	—%
Mid-line import		13,083	54%		12,764	53%		319	2%
Mid-line domestic		4,101	17%		4,294	18%		(193)	(4)%
Value		517	2%		482	2%		35	7%
Total passenger vehicle retail units- same store		23,220			23,047			173	1%
Heavy trucks		1,017	4%		1,076	4%		(59)	(5)%



(1) Same store amounts include the results of dealerships for the identical months for each period presented in the comparison, commencing with the first full month in which the dealership was owned by us.

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New vehicle gross profit increased \$2.4 million (4%) to \$59.5 million for the three months ended March 31, 2007, from \$57.1 million for the three months ended March 31, 2006. New retail gross profit increased \$2.2 million (4%) driven by a \$3.0 million (7%) increase in luxury and mid-line import same store retail gross profit as a result of (i) increased demand for certain new luxury vehicles, (ii) the continued increase in mid-line import market share and (iii) our ability to capitalize on manufacturer incentive programs from mid-line import brands. These increases in same store retail gross profit were partially offset by the performance of our mid-line domestic and value brands, which were down 11% and 20%, respectively, with the majority of the decrease resulting from the continued loss of market share for the domestic brands.

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Used Vehicle —	2007	March 31, 2006	Increase (Decrease)	% Change
	(In thousands, except for unit and PVR data)			

<b>Revenue:</b>				
Retail revenues—same store(1)	\$ 295,794	\$ 266,367	\$ 29,427	11%
Retail revenues—acquisitions	722	—		
Total used retail revenues	296,516	266,367	30,149	11%
Wholesale revenues—same store(1)	81,407	86,048	(4,641)	(5)%
Wholesale revenues—acquisitions	224	—		
Total wholesale revenues	81,631	86,048	(4,417)	(5)%
Used vehicle revenue, as reported	<u>\$ 378,147</u>	<u>\$ 352,415</u>	\$ 25,732	7%
<b>Gross Profit:</b>				
Retail gross profit—same store(1)	\$ 35,576	\$ 32,033	\$ 3,543	11%
Retail gross profit—acquisitions	77	—		
Total used retail gross profit	35,653	32,033	3,620	11%
Wholesale gross profit—same store(1)	494	400	94	24%
Wholesale gross profit—acquisitions	22	—		
Total wholesale gross profit	516	400	116	29%
Used vehicle gross profit, as reported	<u>\$ 36,169</u>	<u>\$ 32,433</u>	\$ 3,736	12%
Used retail units—same store(1)	16,568	15,219	1,349	9%
Used retail units—acquisitions	57	—		
Used retail units—actual	<u>16,625</u>	<u>15,219</u>	1,406	9%
Used revenue PVR—same store(1)	\$ 17,853	\$ 17,502	\$ 351	2%
Used revenue PVR—actual	<u>\$ 17,836</u>	<u>\$ 17,502</u>	\$ 334	2%
Used gross profit PVR—same store(1)	\$ 2,147	\$ 2,105	\$ 42	2%
Used gross profit PVR—actual	<u>\$ 2,145</u>	<u>\$ 2,105</u>	\$ 40	2%
Used retail gross margin—same store(1)	12.0%	12.0%	—%	—%
Used retail gross margin—actual	<u>12.0%</u>	<u>12.0%</u>	—%	—%

(1) Same store amounts include the results of dealerships for the identical months for each period presented in the comparison, commencing with the first full month in which the dealership was owned by us.

Used vehicle revenues increased \$25.7 million (7%) to \$0.4 billion for the three months ended March 31, 2007. The increase in used vehicle revenues was a result of a 9% increase in used retail unit sales. Used vehicle gross profit increased \$3.8 million (12%) to \$36.2 million for the three months ended March 31, 2007, from \$32.4 million for the three months ended March 31, 2006. Used retail gross profit increased \$3.7 million (11%) to \$35.7 million as a result of a 9% increase in used retail unit sales.

The increases in our used retail units sales and used gross profit is a result of our investment in technology to better value trade-ins and improve inventory management, sharing of best practices and the execution by our regional management teams dedicated to the used vehicle business. We expect used vehicle revenues and gross profit to continue to increase in the future as we execute our current initiatives, increase our focus on sub-prime customers and increase our focus on our training initiatives.

Fixed Operations —	For the Three Months Ended		Increase (Decrease)	% Change
	March 31, 2007	2006		
(In thousands, except for unit data)				
Revenue:				
Revenues—same store(1)				
Parts and service	\$ 158,231	\$ 152,475	\$ 5,756	4%
Collision repair	15,984	16,054	(70)	—%
Total revenue—same store(1)	174,215	168,529	5,686	3%
Revenues—acquisitions	73	—		
Parts, service and collision repair revenue, as reported	<u>\$ 174,288</u>	<u>\$ 168,529</u>	\$ 5,759	3%
Gross Profit:				
Gross profit—same store(1)				
Parts and service	\$ 80,885	\$ 75,852	\$ 5,033	7%
Collision repair	8,719	8,434	285	3%
Total gross profit—same store(1)	89,604	84,286	5,318	6%
Gross profit—acquisitions	69	—		
Parts, service and collision repair gross profit, as reported	<u>\$ 89,673</u>	<u>\$ 84,286</u>	\$ 5,387	6%
Parts and service gross margin—same store(1)	51.1%	49.7%	1.4%	3%
Collision repair gross margin—same store(1)	54.5%	52.5%	2.0%	4%

(1) Same store amounts include the results of dealerships for the identical months for each period presented in the comparison, commencing with the first full month in which the dealership was owned by us.

Fixed operations revenues increased \$5.8 million (3%) to \$174.3 million for the three months ended March 31, 2007, from \$168.5 million for the three months ended March 31, 2006. Fixed operations revenues increased primarily due to an 8% increase in our “customer pay” parts and service businesses. The growth in our “customer pay” business is a result of our investments in facility expansion and equipment upgrades, increased capacity utilization, and continued focus on customer retention initiatives.

Fixed operations gross profit increased \$5.4 million (6%) to \$89.7 million for the three months ended March 31, 2007, from \$84.3 million for the three months ended March 31, 2006. The increase in fixed operations gross profit is primarily a result of an 11% increase in gross profit from our “customer pay” parts and service businesses.

We expect our fixed operations sales to continue to grow as we (i) continue to invest in additional service capacity, (ii) upgrade equipment, (iii) expand our product offerings, (iv) capitalize on our regional training programs and (v) add service advisors and skilled technicians to meet anticipated future demand, especially from the increased market share of the mid-line import and luxury import brands.

Finance and Insurance, net—	For the Three Months Ended March 31,		Increase (Decrease)	% Change
	2007	2006		
	(In thousands, except for unit and PVR data)			
Dealership generated F&I—same store(1)	\$ 38,609	\$ 34,157	\$ 4,452	13%
Dealership generated F&I—acquisitions	75	—		
Dealership generated F&I, net	38,684	34,157	4,527	13%
Corporate generated F&I	—	993	(993)	NM
Finance and insurance, net as reported	\$ 38,684	\$ 35,150	\$ 3,534	10%
Dealership generated F&I PVR-same store (1) (2)	\$ 946	\$ 868	\$ 78	9%
Dealership generated F&I PVR-actual (2)	\$ 945	\$ 868	\$ 77	9%
F&I PVR-actual	\$ 945	\$ 893	\$ 52	6%

(1) Same store amounts include the results of dealerships for the identical months for each period presented in the comparison, commencing with the first full month in which the dealership was owned by us.

(2) Refer to “Reconciliation of Non-GAAP Financial Information” for further discussion regarding dealership generated F&I gross profit PVR.

F&I increased \$3.5 million (10%) to \$38.7 million for the three months ended March 31, 2007, from \$35.2 million for the three months ended March 31, 2006. Approximately \$3.0 million of the increase in F&I was a result of the \$77 (9%) increase in dealership generated F&I PVR, \$1.4 million from a 4% increase in retail units, partially offset by the \$1.0 million reduction in corporate generated F&I. The increase in dealership generated F&I PVR was a result of a renegotiated contract with our primary service contract provider in the second quarter of 2006, which contributed an incremental \$35 PVR. During the second quarter of 2006 we sold our remaining interest in a pool of extended service contracts. As a result of this sale, we no longer receive any corporate generated F&I.

Dealership generated F&I, which excludes corporate generated F&I, increased \$4.5 million (13%) to \$38.7 million for the three months ended March 31, 2007, from \$34.2 million for the three months ended March 31, 2006. The increase in dealership generated F&I was primarily a result of a 9% increase in dealership generated F&I PVR. We anticipate F&I will increase in the future as a result of (i) increased retail unit sales, (ii) the maturation of new F&I programs and (iii) improvement of the F&I operations at our under-performing franchises.

Selling, General and Administrative —	For the Three Months Ended March 31,		% of Gross Profit	% of Gross Profit	% of Gross Profit Increase (Decrease)	% of Gross Profit % Change
	2007	2006				
Personnel costs	\$ 80,926	\$ 77,561	36.1%	37.1%	(1.0)%	(3)%
Sales compensation	25,196	23,131	11.2%	11.1%	0.1%	1%
Share-based compensation	1,895	1,369	0.8%	0.7%	0.1%	14%
Retirement benefits expense	2,950	—	1.3%	—%	1.3%	NM
Outside services	15,196	13,157	6.8%	6.3%	0.5%	8%
Advertising	12,545	11,562	5.6%	5.5%	0.1%	2%
Rent	13,941	12,994	6.2%	6.2%	—%	—%
Utilities	4,775	4,863	2.1%	2.3%	(0.2)%	(9)%
Insurance	3,563	3,864	1.7%	1.9%	(0.2)%	(11)%
Other	15,399	14,790	6.9%	7.1%	(0.2)%	(3)%
Selling, general and administrative	\$ 176,386	\$ 163,291	78.7%	78.2%	0.5%	1%
<b>Adjustments to SG&amp;A:</b>						
Retirement benefits expense	(2,950)	—	(1.3)%			
Adjusted selling, general and administrative	\$ 173,436	\$ 163,291	77.4%	78.2%	(0.8)%	(1)%
Gross Profit	\$ 224,063	\$ 208,919				

SG&A expenses were \$176.4 million for the three month ended March 31, 2007, as compared to \$163.3 million for the three months ended March 31, 2006. SG&A expenses during the three months ended March 31, 2007 include \$3.0 million of costs associated with the retirement of our current CEO, Kenneth B. Gilman. Excluding this item, adjusted SG&A expense as a percentage of gross profit decreased 80 basis points to 77.4% for the three months ended March 31, 2007, from 78.2% for the three months ended March 31, 2006. The improvement in adjusted SG&A as a percentage of adjusted gross profit is a result of several expense control initiatives and continued leveraging of our fixed overhead and organizational structure by increasing total gross profit by \$15.1 million (7%) during the three months ended March 31, 2007, as compared to the three months ended March 31, 2006. We anticipate that we will continue to lower our SG&A expense as a percentage of gross profit in the future as we continue to consolidate certain back office functions and continue to leverage our fixed cost structure, partially offset by increased rent expense as we continue to add service capacity.

#### *Depreciation and Amortization—*

Depreciation and amortization expense increased \$0.3 million (8%) to \$5.3 million for the three months ended March 31, 2007 from \$5.0 million for the three months ended March 31, 2006. This increase is primarily related to property and equipment acquired during 2007 and 2006. We expect depreciation and amortization to increase in the future as a result of previous and future capital expenditure projects to remodel and upgrade our facilities and expand our service capacity.

#### *Other Income (Expense)—*

Floor plan interest expense increased \$2.3 million (26%) to \$11.2 million for the three months ended March 31, 2007, from \$8.9 million for the three months ended March 31, 2006. Approximately 43% of this increase was the result of a 65 basis point increase in short-term interest rates over last year, approximately 43% of the increase was the result of higher average inventory levels during the three months ended March 31, 2007 as compared to the three months ended March 31, 2006 and the remaining 14% was primarily the result of the amortization of two cash flow swaps, which were terminated in March of 2006. The increase in the average inventory levels are primarily a result of increased inventories of heavy trucks as we have strategically increased our inventories of 2006 model heavy trucks due to the change in emission laws effective January 2007. We expect floor plan expense to fluctuate with changes in our inventory levels in the near future as we anticipate that short-term interest rates will remain at their current level.

Other interest expense increased \$0.9 million (8%) to \$11.8 million for the three months ended March 31, 2007, from \$10.9 million for the three months ended March 31, 2006. Approximately \$0.2 million of the increase in other interest expense is a result of a higher effective interest rate on our 8% Notes due to the termination of a fair value swap on our 8% Notes in March of 2006. As a result, our 8% Notes, which had a variable rate while the fair value swap was in place, became fixed at 8% in March 2006 and will remain fixed until maturity in 2014. The amortization of the swap termination costs increased other interest expense by \$0.2 million for the three months ended March 31, 2007.

During the three months ended March 31, 2007, we recognized a \$17.7 million loss on the extinguishment of \$238.1 million of our 9% Notes and \$3.0 million of our 8% Notes in connection with the refinancing of our long-term debt. Included in the \$17.7 million loss are (i) a \$12.4 million premium on the repurchase of the 9% Notes and 8% Notes, (ii) \$5.2 million of costs associated with a pro-rata write-off of unamortized debt issuance costs associated with the 9% Notes and 8% Notes, and (iii) \$0.1 million of costs associated with a pro-rata write-off of the unamortized value of our terminated fair value swap associated with the 8% Notes. Other interest expense will decrease by \$7.9 million on an annual basis as a result of this debt refinancing. In addition, our board of directors has authorized us to repurchase up to an additional \$19.4 million of our senior subordinated notes.

Interest income increased \$1.3 million (170%) to \$2.0 million for the three months ended March 31, 2007 from \$0.7 million for the three months ended March 31, 2006. The increase in interest income is a result of higher average cash balances during the three months ended March 31, 2007 as compared to the three months ended March 31, 2006 and a 65 basis point increase in short-term interest rates.

#### *Income Tax Expense—*

Income tax expense decreased \$6.7 million (82%), to \$1.5 million for the three months ended March 31, 2007, compared to \$8.2 million for the three months ended March 31, 2006. Our effective tax rate for the three months ended March 31, 2007, was 37.7% compared to 37.5% for the three months ended March 31, 2006, an increase of 20 basis points principally as a result of tax law changes in the state of Texas. As we operate nationally, our effective tax rate is dependent upon our geographic revenue mix. We evaluate our effective tax rate periodically based on our revenue sources. We will continue to evaluate our effective tax rate in the future, and expect that our future annual effective tax rate will be between 37.5% and 38.5%.

#### *Discontinued Operations—*

	<b>For the Three Months Ended March 31,</b>	
	<b>2007</b>	<b>2006</b>
	<b>(Dollars in thousands)</b>	
Franchises	<u>2</u>	<u>12</u>
Net losses from sold or closed franchises, net of tax	\$ (664)	\$ (1,170)
Net divestiture income (expense) including net gain (loss) on sale of franchises, net of tax	<u>(1,312)</u>	<u>33</u>
Discontinued operations, net of tax	<u>\$ (1,976)</u>	<u>\$ (1,137)</u>

During the three months ended March 31, 2007, we sold two franchises (two dealership locations). The \$2.0 million loss from discontinued operations is a result of (i) \$1.3 million, net of tax, of divestiture expense associated with the two franchises mentioned above (ii) \$0.1 million, net of tax, of net losses of franchises sold in 2007 and (iii) \$0.6 million, net of tax, of additional divestiture costs and certain recurring costs associated with franchises sold prior to 2007. The \$1.1 million loss from discontinued operations for the three months ended March 31, 2006, includes \$1.2 million, net of tax, of losses of franchises sold or closed in 2007 and 2006 and \$0.1 million, net of tax, of net divestiture income associated with franchises sold during the three months ended March 31, 2006.

We continuously evaluate the financial and operating results of our dealerships, specifically the 10% contributing the least amount of operating income, and we will look to divest dealerships that do not meet our expectations. We do not currently have any franchises held for sale and based on the performance of our current brand mix, we do not anticipate a significant amount of divestitures in the near future.

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## LIQUIDITY AND CAPITAL RESOURCES

We require cash to fund working capital needs, finance acquisitions of new dealerships and fund capital expenditures. We believe that our cash and cash equivalents on hand as of March 31, 2007, our funds generated through future operations and the funds available for borrowings under our Committed Credit Facility (as defined below), floor plan facilities, mortgage notes payable and proceeds from sale-leaseback transactions will be sufficient to fund our debt service and working capital requirements, commitments and contingencies, acquisitions, capital expenditures, current divided commitments and any seasonal operating requirements for the foreseeable future.

As of March 31, 2007, we had cash and cash equivalents of approximately \$94.5 million and working capital of \$387.7 million. In addition, we had \$125.0 million available for borrowings under our committed credit facility for working capital, general corporate purposes and acquisitions.

### *Long-term Debt Refinancing*

During the three months ended March 31, 2007, we initiated a refinancing of our long-term debt which included (i) a cash tender offer for all of our \$250.0 million 9% Senior Subordinated Notes due 2012 ("9% Notes"), (ii) the issuance of \$115.0 million of 3% Senior Subordinated Convertible Notes due 2012 ("3% Notes"), which have an initial conversion price of \$33.99 and (iii) the issuance of \$150.0 million of 7.625% Senior Subordinated Notes due 2017. As of March 31, 2007, we had completed the issuance of our 3% Notes and 7.625% Notes and repurchased \$238.1 million of our 9% Notes through our tender offer. We plan to call the remaining \$11.9 million of our 9% Notes on the first call date of June 15, 2007. Upon completion of our long-term debt refinancing, we expect our annual interest expense will decrease by approximately \$7.9 million.

In connection with the issuance of our 3% Notes, we paid \$19.3 million for convertible note hedge and sold warrants to purchase shares of our common stock for proceeds of \$8.9 million. The convertible note hedge and warrant transactions are separate contracts and are not part of the terms of the 3% Notes and will not affect the holders' rights under the 3% Notes. Holders of the 3% Notes will not have any rights with respect to the convertible note hedge and warrant transactions. These equity transactions require the counterparties to deliver shares to holders of our 3% Notes who convert when the fair market value of our common stock is between \$33.99 and \$45.09, effectively increasing the conversion price of the 3% Notes to \$45.09, which is a 62.50% premium over the market price of our common stock at the time of pricing. The convertible note hedge transactions are expected to offset the potential dilution upon conversion of the 3% Notes in the event that the market value per share of our common stock at the time of exercise is greater than the strike price of the convertible note hedge transactions.

### *3% Senior Subordinated Convertible Notes due 2012—*

On March 16, 2007, we issued \$115.0 million in aggregate principal amount of our 3% Notes, receiving net proceeds of \$111.4 million. The sale of the notes was exempt from registration pursuant to Rule 144A under the Securities Act of 1933. During the second quarter of 2007, we expect to file a shelf registration statement with the Securities and Exchange Commission covering the resale of the notes and the underlying common stock. The costs related to the issuance of these notes were capitalized and are being amortized to other interest expense over the term of the notes. We pay interest on these notes on March 15 and September 15 of each year until their maturity on September 15, 2012. If and when these notes are converted, we will pay cash for the principal amount of each note and, if applicable, shares of our common stock based on a daily conversion value calculated on a proportionate basis for each volume weighted average price ("VWAP") trading day (as defined in the notes) and the relevant 30 VWAP trading day observation period. The initial conversion rate for the notes will be 29.4172 shares of common stock per \$1,000 principal amount of notes, which is equivalent to an initial conversion price of \$33.99 per share. The conversion rate will be subject to adjustment in some events but will not be adjusted for accrued interest.

Our 3% Notes are guaranteed by all our wholly-owned current subsidiaries and all of our future domestic subsidiaries that have outstanding, incur or guarantee any other indebtedness. The terms of our 3% Notes, in certain circumstances, restrict our ability to, among other things, sell all or substantially all of our assets.

### *7.625% Senior Subordinated Notes due 2017—*

On March 26, 2007, we issued \$150.0 million of our 7.625% Notes, receiving net proceeds of \$146.3 million. The sale of the notes was exempt from registration pursuant to Rule 144A and Regulation S under the Securities Act of 1933, as amended. During the second quarter of 2007, we expect to file a registration statement with the Securities

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and Exchange Commission in connection with an exchange offer to exchange the notes for new notes with substantially identical terms that are registered under the Securities Act of 1933 and, therefore, will generally be freely transferable. The costs related to the issuance of these notes were capitalized and are being amortized to other interest expense over the term of the notes. We pay interest on these notes on March 15 and September 15 of each year until their

maturity on March 15, 2017. At any time during the term of the 7.625% Notes we may, at our option, choose to redeem all or a portion of these notes at a price equal to 100% of their principal amount plus the applicable premium set forth in the 7.625% Notes indenture. On or before March 15, 2010, we may, at our option, use the net proceeds of one or more equity offerings to redeem up to 35% of the aggregate principal amount of these notes at a redemption price equal to 107.625% of their principal amount plus accrued and unpaid interest thereon.

Our 7.625% Notes are guaranteed by all of our wholly-owned current subsidiaries and all of our future domestic subsidiaries that have outstanding, incur or guarantee any other indebtedness. The terms of our 7.625% Notes, in certain circumstances, restrict our ability to, among other things, incur additional indebtedness, pay dividends, repurchase our common stock and merge or sell all or substantially all our assets.

#### *Share Repurchase and Dividends*

In January 2007, our board of directors declared a \$0.20 per share dividend, which was the third consecutive quarter that a \$0.20 per share dividend was paid.

In February 2007, our board of directors approved a 1.3 million share repurchase program with the objective of offsetting earnings per share dilution resulting from employee share-based compensation programs. In connection with the refinancing of our long-term debt, we elected to purchase all of the 1.3 million shares at \$27.75 per share for \$36.1 million.

#### *Committed Credit Facility*

We have a committed credit facility (the “Committed Credit Facility”) with JPMorgan Chase Bank, N.A., and 18 other financial institutions (the “Syndicate”), which provides us with \$125.0 million of working capital borrowing capacity and \$425.0 million of financing for all of our new and used vehicle inventory with the exception of our (i) Ford, Lincoln, Mercury, Mazda, Volvo and Rover dealerships (“Ford Trustmark”), (ii) General Motors dealerships and (iii) Mercedes, Chrysler, Dodge and Jeep dealerships (“DaimlerChrysler Dealerships”) through March 2009. Ford Motor Credit Corporation (“FMCC”) provides us with \$150.0 million of floor plan financing outside of the Syndicate to finance inventory at our Ford Trustmark dealerships while General Motors Acceptance Corporation (“GMAC”) and DaimlerChrysler Financial Services (“DCFS”) each provides us with \$100.0 million of floor plan financing outside of the Syndicate to finance inventory at our General Motors’ dealerships and DaimlerChrysler Dealerships, respectively.

#### *Floor Plan Financing-*

We finance substantially all of our new vehicle inventory and, at our option, have the ability to finance a portion of our used vehicle inventory. We consider floor plan notes payable to a party that is affiliated with vehicle manufacturers from which we purchase new vehicle inventory “Floor plan notes payable — manufacturer affiliated” and all other floor plan notes payable “Floor plan notes payable — non-manufacturer affiliated.” As of March 31, 2007, total borrowing capacity under the floor plan financing agreements with our vehicle floor plan providers totaled \$795.0 million. In addition, as of March 31, 2007, we had total borrowing capacity of \$56.0 million under ancillary floor plan financing agreements with Comerica Bank and Navistar Financial for our heavy trucks business in Atlanta, Georgia. As of March 31, 2007, we had \$671.4 million, outstanding to lenders affiliated and non-affiliated with the vehicle manufacturers from which we purchase our vehicle inventory.

Amounts borrowed under the Committed Credit Facility are secured by certain of our tangible and intangible assets and the guarantees of each of our subsidiaries, other than our Toyota and Lexus subsidiaries.

#### *Debt Covenants-*

We are subject to certain financial covenants in connection with our debt and lease agreements, including the financial covenants described below. Our Committed Credit Facility includes certain financial ratios with the following requirements: (i) an adjusted current ratio of at least 1.2 to 1, of which our ratio was 1.6 to 1 as of March 31, 2007; (ii) a fixed charge coverage ratio of at least 1.2 to 1, of which our ratio was 1.6 to 1 as of March 31, 2007; (iii) an adjusted leverage ratio of not more than 4.5 to 1, of which our ratio was 2.9 to 1 as of March 31, 2007 and (iv) a minimum adjusted net worth of not less than \$350.0 million, of which our adjusted net worth was \$467.7 million as of March 31, 2007. A breach of these covenants could cause an acceleration of repayment of our Committed Credit Facility if not otherwise waived or cured.

Certain of our lease agreements include financial ratios with the following requirements: (i) a liquidity ratio of at least 1.2 to 1, of which our ratio was 1.5 to 1 as of March 31, 2007 and (ii) an EBITDA based coverage ratio of at least 1.5 to 1, of which our ratio was 3.2 to 1 as of March 31, 2007. A breach of these covenants would give rise to certain lessor remedies under our various lease agreements, the most severe of which include the following: (a) termination of the applicable lease, (b) termination of certain of the tenant’s lease rights, such as renewal rights and rights of first offer or negotiation relating to the purchase of the premises, and/or (c) a liquidated damages claim equal to the amount to which the accelerated rents under the applicable lease for the remainder of the lease term exceed the fair market rent over the same periods. As of March 31, 2007, we were in compliance with all our debt and lease agreement covenants.

#### **Cash Flows for the Three Months Ended March 31, 2007 Compared to the Three Months Ended March 31, 2006**

Floor plan borrowings are required by all vehicle manufacturers for the purchase of new vehicles, and our agreements with our floor plan providers require us to repay amounts borrowed for the purchase of a vehicle immediately after that vehicle is sold. As a result, changes in floor plan notes payable are directly linked to changes in new vehicle inventory and therefore are an integral part of understanding changes in our working capital and operating cash flow. Consequently, we have provided a reconciliation of cash flow from operating activities and financing activities, as if all changes in floor plan notes payable were classified as an operating activity.

(In thousands)	For the Three Months Ended March 31,	
	2007	2006
<i>Reconciliation of Cash (used in)/provided by Operating Activities to Adjusted Cash provided by Operating Activities</i>		
Cash (used in) provided by operating activities — as reported	\$ (44,360)	\$ 73,686
Floor plan notes payable — non-manufacturer affiliated, net	60,994	(70,437)
Cash provided by operating activities — as adjusted	\$ 16,634	\$ 3,249



*Reconciliation of Cash provided by(used in) Financing Activities to Adjusted Cash(used in) provided by Financing Activities*

Cash provided by (used in) financing activities — as reported	\$ 16,042	\$ (67,808)
Floor plan borrowings — non-manufacturer affiliated	(663,002)	(677,249)
Floor plan repayments — non-manufacturer affiliated	602,008	747,686
Cash (used in) provided by financing activities — as adjusted	<u>\$ (44,952)</u>	<u>\$ 2,629</u>

*Operating Activities—*

Net cash used in operating activities totaled \$44.4 million for the three months ended March 31, 2007. Net cash provided by operating activities totaled \$73.7 million for the three months ended March 31, 2006. Net cash provided by operating activities, as adjusted, totaled \$16.6 million and \$3.2 million for the three months ended March 31, 2007 and 2006, respectively. Cash provided by operating activities, as adjusted, includes net income adjusted for non-cash items and changes in working capital, including changes in floor plan notes payable and inventory. The increase in our cash provided by operating activities, as adjusted, for the three months ended March 31, 2007, as compared to the three months ended March 31, 2006, was a result of a \$9.6 million increase in net income adjusted for non-cash items and \$5.6 million related to the timing of payments of accounts payable, accrued liabilities and prepaid assets.

*Investing Activities—*

Net cash used in investing activities totaled \$6.4 million and \$3.2 million for the three months ended March 31, 2007 and 2006, respectively. Cash flows from investing activities relate primarily to capital expenditures, acquisition and divestiture activity, sale of property and equipment and construction reimbursements from lessors in connection with our sale-leaseback agreements.

Capital expenditures were \$12.9 million and \$11.9 million for the three months ended March 31, 2007 and 2006, respectively, of which \$2.7 million and \$6.4 million, were financed or were pending financing through sale-leaseback agreements for the three months ended March 31, 2007 and 2006, respectively. Our capital investments consisted of upgrades of our existing facilities, equipment purchases and construction of new facilities. Future capital expenditures will relate primarily to upgrading existing dealership facilities and operational improvements that we expect will provide us with acceptable rates of return on our investments. We expect that capital expenditures during 2007 will total between \$70 million and \$80 million, of which we intend to finance approximately 50% to 60% principally through sale-leaseback agreements.

Proceeds from the sale of assets totaled \$8.4 million and \$9.3 million for the three months ended March 31, 2007 and 2006, respectively. Included in the proceeds from the sale of assets for the three months ended March 31, 2007 and 2006, was \$5.4 million and \$5.9 million of proceeds that were paid directly to our floor plan providers associated with the sale of inventory in connection with our divestitures. We continuously monitor the profitability and market value of our dealerships and, under certain conditions, may strategically divest non-profitable dealerships.

*Financing Activities—*

Net cash provided by financing activities totaled \$16.0 million for the three months ended March 31, 2007. Net cash used in financing activities totaled \$67.8 million for the three months ended March 31, 2006. Net cash used in financing activities, as adjusted, totaled \$45.0 million for the three months ended March 31, 2007. Net cash provided by financing activities, as adjusted, totaled \$2.6 million for the three months ended March 31, 2006.

During the three months ended March 31, 2007, and 2006, proceeds from borrowings totaled \$265.0 million and \$0.9 million, respectively. Proceeds from borrowings during the three months ended March 31, 2007 include the issuance of our 3% Notes and 7.625% Notes. In addition we incurred \$7.3 million of debt issuance costs associated with issuance of our 3% Notes and 7.625% Notes.

During the three months ended March 31, 2007, and 2006, we repaid debt of \$253.9 million and \$1.6 million, respectively. Included in the \$253.9 million of debt repayments above was \$250.4 million related to the repurchase of \$238.1 million of our 9% Notes and \$3.1 million related to the repurchase of \$3.0 million of our 8% Notes. In addition, our board of directors has authorized us to repurchase up to an additional \$19.4 million of our senior subordinated notes.

During the three months ended March 31, 2007, in connection with the 3% Notes we paid \$19.3 million for a convertible bond hedge and sold warrants to purchase shares of our common stock at \$45.09 per share for proceeds of \$8.9 million.

During the three months ended March 31, 2007, we paid a \$0.20 per share dividend totaling \$6.7 million. This was the third consecutive quarter that a \$0.20 per share dividend was paid.

During the three months ended March 31, 2007, in connection with the issuance of convertible debt, we purchased 1.3 million shares of our common stock at \$27.75 per share for \$36.1 million.

During the three months ended March 31, 2007, we received net proceeds of \$3.2 million from the sale of real estate associated with sale-leaseback transactions. We consider these particular transactions financing activities as we owned the real estate and related improvements prior to the sale-leaseback transaction and continue to use the dealership facilities and related real estate in our operations. We have entered into long-term lease agreements for use of the dealership facilities with the lessors.

During the three months ended March 31, 2007 and 2006, we received net proceeds from the exercise or vesting of share-based equity awards totaling \$0.3 million and \$2.9 million, respectively. The \$0.3 million of proceeds for the three months ended March 31, 2007, includes the payment of \$0.7 million of employee tax withholdings in connection with a net share settlement of equity awards.

**Off-Balance Sheet Transactions**

We had no material off-balance sheet transactions during the periods presented other than those disclosed in Note 14 of our condensed consolidated financial statements.

## **Stock Repurchase and Dividend Restrictions**

Pursuant to the indentures governing our 9% Senior Subordinated Notes due 2012, our 8% Senior Subordinated Notes due 2014, our 7.625% Senior Subordinated Notes due 2017 and our Committed Credit Facility, our ability to repurchase shares of our common stock and pay cash dividends is limited. As of March 31, 2007, our ability to repurchase shares and pay cash dividends was limited to \$34.8 million due to these restrictions.

## **CRITICAL ACCOUNTING ESTIMATES**

Preparation of financial statements in conformity with accounting principles generally accepted in the United States

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of America requires management to make estimates and assumptions that affect amounts of assets and liabilities and disclosures of contingent assets and liabilities as of the date of the financial statements and reported amounts of revenues and expenses during the periods presented. Actual amounts could differ from those estimates. On an ongoing basis, management evaluates its estimates and assumptions and the effects of revisions are reflected in the financial statements in the period in which they are determined to be necessary. The accounting policies described below are those that most frequently require management to make estimates and judgments, and therefore are critical to understanding our results of operations. Senior management has discussed the development and selection of these accounting estimates and the related disclosures with the audit committee of our board of directors.

### *Inventories—*

Our inventories are stated at the lower of cost or market. We use the specific identification method to value our vehicle inventories and the “first-in, first-out” method (“FIFO”) to account for our parts inventories. We maintain a reserve for specific inventory units where cost basis exceeds fair value. In assessing lower of cost or market for new and used vehicles, we consider (i) the aging of new and used vehicles, (ii) loss histories of new and used vehicles, (iii) the timing of annual and model changeovers of new vehicles and (iv) current market conditions. We very rarely sell new vehicles that have been in inventory for less than 300 days at a loss. Our new vehicle loss histories have indicated that our losses range between 1% to 6% of our new vehicle inventory that exceeded 300 days old. As of March 31, 2007, our new vehicle loss reserve was \$0.6 million or 5.6% of new vehicle inventory over 300 days old. Each 1% change in our estimate would change our new vehicle reserve approximately \$0.1 million. Our used vehicle loss histories have indicated that our losses range between 2% to 4% of our used vehicle inventory. As of March 31, 2007, our used vehicle loss reserve was \$3.5 million or 2.8% of used vehicle inventory. A 1% change in our estimate of used vehicle losses during the three months ended March 31, 2007 would change Used Vehicle Cost of Sales by approximately \$1.2 million.

### *Notes Receivable—Finance Contracts—*

As of March 31, 2007 and December 31, 2006, we had outstanding notes receivable from finance contracts of \$17.5 million and \$17.9 million, respectively. These notes have initial terms ranging from 12 to 60 months, and are collateralized by the related vehicles. The assessment of our allowance for credit losses considers historical loss ratios and the performance of the current portfolio with respect to past due accounts. We continually analyze our current portfolio against our historical performance. In addition, we attribute minimal value to the underlying collateral in our assessment of the reserve. Our loss histories indicate our future credit losses will be approximately 16% of notes receivable. Our allowance for credit losses was \$3.3 million and \$3.1 million as of March 31, 2007 and December 31, 2006, respectively. A 1% change in our estimate of notes receivable losses during the three months ended March 31, 2007 would change our Finance and Insurance, net by approximately \$0.3 million.

### *F&I Chargeback Reserve—*

We receive commissions from the sale of vehicle service contracts, credit life insurance and disability insurance to customers. In addition, we receive commissions from financing institutions for arranging customer financing. We may be charged back (“chargebacks”) for finance, insurance or vehicle service contract commissions in the event a contract is terminated. The revenues from financing fees and commissions are recorded at the time the vehicles are sold and a reserve for future chargebacks is established based on historical operating results and the termination provisions of the applicable contracts. This data is evaluated on a product-by-product basis. Our loss histories vary depending on the product but generally range between 7% and 21%. Our chargeback reserves were \$14.5 million and \$14.1 million as of March 31, 2007 and December 31, 2006, respectively. A 1% change in chargebacks of all our products during the three months ended March 31, 2007 would change Finance and Insurance, net by approximately \$0.4 million.

### *Self Insurance Reserves—*

We are self insured for certain employee medical, workers compensation and general liability claims. We maintain stop loss insurance for individual and aggregate claims. We maintain and frequently review claim and loss histories to help us assess our future liability for these claims. In addition, we use professional service providers such as account administrators and actuaries to help us accumulate and assess this information. As of March 31, 2007, we had \$7.4 million of insurance reserves for both known and unknown employee medical, workers compensation and general liability claims.

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### *Goodwill and Other Intangible Assets—*

Goodwill represents the excess cost of the businesses acquired over the fair market value of the identifiable net assets. We have determined that based on how we operate our business, allocate resources, and regularly review our financial data and operating results that we qualify as a single reporting unit for purposes of testing goodwill for impairment. We evaluate our operations and financial results in the aggregate by dealership. The dealership general



managers are responsible for customer facing activities, including inventory management and advertising and personnel decisions; and have the flexibility to respond to local market conditions. The corporate management team, with input from the regional management teams, is responsible for infrastructure and general strategy decisions.

The fair market value of our manufacturer franchise rights is determined at the acquisition date through discounting the projected cash flows specific to each franchise. We have determined that manufacturer franchise rights have an indefinite life as there are no legal, contractual, economic or other factors that limit their useful lives and they are expected to generate cash flows indefinitely due to the historically long lives of the manufacturers' brand names. Due to the fact that manufacturer franchise rights are specific to the location in which we acquire a dealership, we have determined that the dealership is the reporting unit for purposes of testing for impairment.

In accordance with SFAS No. 142, "Goodwill and Other Intangible Assets," we do not amortize goodwill and other intangible assets that are deemed to have indefinite lives. We review goodwill and indefinite lived manufacturer franchise rights for impairment annually on October 1<sup>st</sup> of each year, or more often if events or circumstances indicate that impairment may have occurred. We are subject to financial statement risk to the extent that intangible assets become impaired due to decreases in the related fair market value of our underlying businesses.

## RECENT ACCOUNTING PRONOUNCEMENTS

In June 2006, the FASB issued FASB Interpretation ("FIN") No. 48 "Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement No. 109". FIN 48 establishes a single model to address accounting for uncertain tax positions. FIN 48 clarifies the accounting for income taxes by prescribing a minimum recognition threshold a tax position is required to meet before being recognized as well as providing guidance on derecognition, measurement classification, interest and penalties and disclosure.

We adopted the provisions of FIN 48 effective January 1, 2007 and recognized no material adjustment in our liability for unrecognized tax benefits. As of January 1, 2007, we had \$3.6 million of total unrecognized tax benefits. Of that amount \$2.4 million, net of the federal effect, if recognized would favorably impact our effective rate in future periods. We do not expect these amounts to change materially in the next twelve months.

In connection with the adoption of FIN 48, we analyzed our filing positions in all of the federal and state jurisdictions where we are required to file tax returns, as well as all open years in these jurisdictions. We have uncertain tax positions in certain of the states in which we do business; however, none of the states individually constitute a "major" tax jurisdiction, as defined. Years subject to audit range as far back as 2003. The Internal Revenue Service commenced examinations of our consolidated federal returns for the years 2004 and 2005 in the first quarter of 2007, and certain of our subsidiary returns for 2003, 2004 and 2005 in the fourth quarter 2006. In addition, we have various state audits for years 2003, 2004 and 2005, being performed as of March 31, 2007. To date, no material adjustments have been proposed and we do not anticipate that these examinations will result in a material change to our financial position or results of operations.

We recognize interest and penalties related to income tax matters in income tax expense. As of March 31, 2007, we had approximately \$0.7 million of accrued interest related to uncertain tax positions and no accrual for penalties. We do not expect the amount of accrued interest to change materially in the next twelve months.

## RECONCILIATION OF NON-GAAP FINANCIAL INFORMATION

### *Adjusted cash provided by (used in) operating and financing activities*

Floor plan borrowings are required by all vehicle manufacturers for the purchase of new vehicles, and our agreements with our floor plan providers require us to repay amounts borrowed for the purchase of a vehicle immediately after that vehicle is sold. As a result, changes in floor plan notes payable are directly linked to changes in new vehicle inventory and therefore are an integral part of understanding changes in our working capital and operating cash flow.

Consequently, we have provided a reconciliation of cash flow from operating activities and financing activities, as if all changes in floor plan notes payable were classified as an operating activity.

(In thousands)	For the Three Months Ended March 31,	
	2007	2006
<i>Reconciliation of Cash (used in) provided by Operating Activities to Adjusted Cash provided by Operating Activities</i>		
Cash (used in) provided by operating activities—as reported	\$ (44,360)	\$ 73,686
Floor plan notes payable—non-manufacturer affiliated, net	60,994	(70,437)
Cash provided by operating activities—as adjusted	<u>\$ 16,634</u>	<u>\$ 3,249</u>
<i>Reconciliation of Cash provided by (used in) Financing Activities to Adjusted Cash (used in) provided by Financing Activities</i>		
Cash provided (used in) by financing activities—as reported	\$ 16,042	\$ (67,808)
Floor plan borrowings—non-manufacturer affiliated	(663,002)	(677,249)
Floor plan repayments—non-manufacturer affiliated	602,008	747,686
Cash (used in) provided by financing activities—as adjusted	<u>\$ (44,952)</u>	<u>\$ 2,629</u>

### *Dealership generated Finance and Insurance Gross Profit PVR-*

We evaluate our finance and insurance gross profit performance on a PVR basis by dividing our total finance and insurance gross profit by the number of retail vehicles sold. During 2003, our corporate office renegotiated a contract with one of our third party finance and insurance product providers, which resulted in the recognition of revenue during the three months ended March 31, 2006, that was attributable to retail vehicles sold during prior periods. We believe that dealership generated finance and insurance gross profit, which excludes the additional commissions derived from this contract, provides a more accurate measure of our finance and insurance operating performance.

The following table reconciles finance and insurance gross profit to dealership generated finance and insurance gross profit, and provides the necessary components to calculate dealership generated finance and insurance gross profit PVR:

(In thousands, except for unit and per vehicle data)	For the Three Months Ended March 31,	
	2007	2006
<i>Reconciliation of Finance and Insurance Gross Profit to Dealership Generated Finance and Insurance Gross Profit:</i>		
Finance and insurance gross profit, net (as reported)	\$ 38,684	\$ 35,150
Less: Corporate generated finance and insurance gross profit	—	(993)
Dealership generated finance and insurance gross profit	<u>\$ 38,684</u>	<u>\$ 34,157</u>
Dealership generated finance and insurance gross profit PVR	<u>\$ 945</u>	<u>\$ 868</u>
Retail units sold:		
New retail units	24,292	24,123
Used retail units	16,625	15,219
Total	<u>40,917</u>	<u>39,342</u>

#### *Adjusted SG&A Expense and Adjusted Income from Continuing Operations*

Our selling, general and administrative expenses for the three months ended March 31, 2007 were impacted by expenses related to the retirement benefits of current CEO Kenneth B. Gilman. We believe that a more accurate comparison of selling, general and administrative expenses can be made by adjusting for this item.

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	For the Three Months Ended March 31,	
	2007	2006
<i>Adjusted SG&amp;A expenses excluding retirement benefits expense:</i>		
SG&A expenses	\$ 176,386	\$ 163,291
Retirement benefits expense	(2,950)	—
Adjusted SG&A expenses	<u>\$ 173,436</u>	<u>\$ 163,291</u>
Gross profit	<u>\$ 224,063</u>	<u>\$ 208,919</u>
Adjusted SG&A expenses as a percentage of gross profit	<u>77.4%</u>	<u>78.2%</u>

Our income from continuing operations for the three months ended March 31, 2007, was impacted by expenses related to the retirement benefit of current CEO Kenneth B. Gilman and costs associated with our long-term debt refinancing. We believe that a more accurate comparison of our income from continuing operations can be made by adjusting for these items.

	For the Three Months Ended March 31,	
	2007	2006
<i>Adjusted income from continuing operations excluding retirement benefits expense and loss on the extinguishment of long-term debt:</i>		
Net income	\$ 433	\$ 12,553
Discontinued operations, net of tax	1,976	1,137
Income from continuing operations	2,409	13,690
Retirement benefits expense, net of tax	1,838	—
Loss on extinguishment of long-term debt, net of tax	11,050	—
Adjusted income from continuing operations	<u>\$ 15,297</u>	<u>\$ 13,690</u>

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

#### **Interest Rate Risk**

We are exposed to market risk from changes in interest rates on a significant portion of our outstanding indebtedness. Based on \$557.1 million of total variable rate debt (including floor plan notes payable) outstanding as of March 31, 2007, a 1% change in interest rates would result in a change of approximately \$5.6 million to our annual other interest expense.

We received \$7.4 million of interest credit assistance from certain automobile manufacturers during the three months ended March 31, 2007. Interest credit assistance reduced cost of sales for the three months ended March 31, 2007 by \$7.1 million and reduced new vehicle inventory by \$4.4 million and \$4.1 million as of March 31, 2007 and December 31, 2006, respectively. Although we can provide no assurance as to the amount of future floor plan credits, it is our expectation, based on historical data, that an increase in prevailing interest rates would result in increased interest credit assistance from certain automobile manufacturers.

#### **Hedging Risk**

In November 2006, we entered into an interest rate swap agreement with a notional principal amount of \$150.0 million as a hedge against the changes in interest rates of our variable rate floor plan notes payable for a period of two years beginning in November 2006. The swap agreement was designated and qualifies as a cash flow hedge of future changes in interest rates of our variable rate floor plan notes payable and is not expected to contain any ineffectiveness. As of March 31, 2007, the swap agreement had a fair value of \$0.4 million, which was included in Other Long-Term Liabilities on the accompanying Condensed Consolidated Balance Sheet.

Three of our interest rate swap agreements terminated in March 2006, which resulted in a cash payment of \$13.7 million, which equaled the fair market value of the swap agreements. Included in Accumulated Other Comprehensive Loss on our Condensed Consolidated Balance Sheet as of March 31, 2007, was \$3.1 million (\$2.0 million, net of tax) of unrecognized amortization related to our two terminated cash flow swaps, which are being amortized through March 2014 as a component of Floor Plan Interest Expense on the accompanying Condensed Consolidated Statements of Income. Amortization of these terminated cash flow swaps will total \$0.9 million for the year ended December 31, 2007. In addition, included as a reduction to our 8% Notes as of March 31, 2007, was \$7.5 million of unrecognized amortization related to our

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terminated fair value swap, which is being amortized through March 2014 as a component of Other Interest Expense on the accompanying Condensed Consolidated Statements of Income. Amortization of this terminated fair value swap will total \$1.1 million for the year ended December 31, 2007.

We have an interest rate swap with a current notional principal amount of \$14.0 million. The swap was designed to provide a hedge against changes in interest rates of our variable rate mortgage notes payable through maturity in June 2011. This interest rate swap qualifies for cash flow hedge accounting treatment and will contain minor ineffectiveness. Under the terms of the swap agreement, we make payments based on a fixed rate of 6.08% and receive a variable rate cash flows based on one-month LIBOR. As of March 31, 2007 and December 31, 2006, the swap agreement had a fair value of \$0.3 million, which was included in Other Long-Term Assets on the accompanying Condensed Consolidated Balance Sheets.

#### Item 4. Controls and Procedures

As of the end of the period covered by this report, the Company conducted an evaluation, under the supervision and with the participation of the Company's chief executive officer and chief financial officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedures as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Based on this evaluation, the Company's chief executive officer and chief financial officer concluded that as of the end of such period such disclosure controls and procedures (i) were reasonably designed to ensure that information required to be disclosed by the Company in reports it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time period specified in the rules and forms of the Securities and Exchange Commission and (ii) were effective.

There have not been any changes in the Company's internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the fiscal quarter to which this report relates that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

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#### Forward-Looking Statements

This report contains "forward-looking statements" as that term is defined in the Private Securities Litigation Reform Act of 1995. The forward-looking statements include statements relating to goals, plans and projections regarding our financial position, results of operations, market position, product development and business strategy. Such statements include, but are not limited to our expectations that the mid-line import and luxury brands will continue to take market share and the impact that will have on our operations; that the vehicle manufacturers will continue their incentive programs; that our increased service expansion will drive future revenue increases; that we will continue to acquire dealerships and the impact those acquisitions on our operations; that our initiatives in F&I will increase revenues; our capital expenditure projections and the impact they will have on our operations, our ability to complete our bond repurchase plan and the impact that plan will have on our operations; the impact that our high margin business will have on our future operations; and our ability to continue to pay dividends.

These statements are based on management's current expectations and involve significant risks and uncertainties that may cause results to differ materially from those set forth in the statements. These risks and uncertainties include, among other things:

- market factors;
- our relationships with vehicle manufacturers and other suppliers;
- the amount of our indebtedness;
- risks related to pending and potential future acquisitions;
- general economic conditions both nationally and locally;
- our ability to successfully implement our strategies,
- governmental regulations and legislation; and

- 
- automotive retail industry trends.

There can be no guarantees that our plans for future operations will be successfully implemented or that they will prove to be commercially successful or that we will be able to continue paying dividends in the future at the current rate or at all. These and other risk factors are discussed in out

## PART II. OTHER INFORMATION

### Item 6. Exhibits

Exhibits required to be filed by Item 601 of Regulation S-K:

Exhibit Number	Description of Documents
4.1	Indenture, dated as of March 16, 2007, among Asbury Automotive Group, Inc., the subsidiary guarantors listed on Schedule I thereto, and The Bank of New York, as Trustee, relating to the 3% Senior Subordinated Convertible Notes due 2012
4.2	Form of 3% Senior Subordinated Convertible Notes due 2012
4.3	Indenture, dated as of March 26, 2007, among Asbury Automotive Group, Inc., the subsidiary guarantors listed on Schedule I thereto, and The Bank of New York, as Trustee, relating to the 7.625% Senior Subordinated Notes due 2017
4.4	Form of 7.625% Senior Subordinated Notes due 2017
4.5	Fifth Supplemental Indenture, dated as of March 8, 2007, among Asbury Automotive Group, Inc. and The Bank of New York, as Trustee, related to the 9% Senior Subordinated Notes due 2012 of Asbury Automotive Group, Inc. (filed as Exhibit 4.1 to Asbury Automotive Group's Current Report on Form 8-K filed with the Securities and Exchange Commission on March 13, 2007)*
4.6	Fourth Supplemental Indenture, dated as of March 15, 2007, among Asbury Automotive Group, Inc., the Subsidiaries of Asbury Automotive Group, Inc. listed on Schedule II thereto, the other Guarantors listed on Schedule I thereto and The Bank of New York, as Trustee, related to the 8% Senior Subordinated Notes due 2014 of Asbury Automotive Group, Inc.
10.1	Registration Rights Agreement dated March 16, 2007, among Asbury Automotive Group, Inc., the subsidiaries of Asbury Automotive Group, Inc. listed on the signature pages thereto, Goldman, Sachs & Co. and Deutsche Bank Securities Inc., relating to the 3% Senior Subordinated Convertible Notes due 2012 of Asbury Automotive Group, Inc.
10.2	Confirmation of Convertible Bond Hedge Transaction dated March 12, 2007, between Asbury Automotive Group, Inc. and Goldman, Sachs & Co.
10.3	Confirmation of Convertible Bond Hedge Transaction dated March 12, 2007 among Asbury Automotive Group, Inc., Deutsche Bank AG, London Branch and Deutsche Bank AG, New York
10.4	Confirmation of Issuer Warrant dated March 12, 2007 between Asbury Automotive Group, Inc. and Goldman, Sachs & Co., dated March 12, 2007
10.5	Confirmation of Issuer Warrant dated March 12, 2007 among Asbury Automotive Group, Inc., Deutsche Bank AG, London Branch and Deutsche Bank AG, New York
10.6	Amendment to Confirmation dated March 13, 2007, between Goldman, Sachs & Co. and Asbury Automotive Group, Inc. relating to the Issuer Warrant
10.7	Amendment to Confirmation dated March 13, 2007, between Deutsche Bank AG, London Branch and Asbury Automotive Group, Inc. relating to the Issuer Warrant
10.8	Exchange and Registration Rights Agreement dated March 26, 2007, among Asbury Automotive Group, Inc., the subsidiaries of Asbury Automotive Group, Inc. listed on the signature pages thereto, Goldman, Sachs & Co. and Deutsche Bank Securities Inc., relating to the 7.625% Senior Subordinated Notes due 2017 of Asbury Automotive Group, Inc.
10.9	Amendment to the Severance Pay Agreement for Key Employee between Charles B. Tomm and Asbury Automotive Group, Inc, dated as of February 1, 2007
10.10	Letter Agreement between Kenneth B. Gilman and Asbury Automotive Group, Inc., dated February 13, 2007 (filed as Exhibit 10.1 to Asbury Automotive Group's Current Report on Form 8-K filed with the Securities and Exchange Commission on February 15, 2007)*
10.11	Third Amendment to Credit Agreement dated August 1, 2006, effective as of March 8, 2007, among Asbury Automotive Group, Inc., each of the subsidiaries of the Company listed on the signature pages thereto, each of the Lenders listed on the signature pages thereto (the "Lenders"), JPMorgan Chase Bank, N.A., as Administrative Agent for the Lenders, JPMorgan Chase Bank, N.A., as Floor Plan Agent for the Lenders, and Bank of America, N.A., as Syndication Agent (filed as Exhibit 10.1 to Asbury Automotive Group's Current Report on Form 8-K filed with the Securities and Exchange Commission on March 13, 2007)*
10.12	Form of Performance Share Unit Award Agreement (filed as Exhibit 10.1 to Asbury Automotive Group's Current Report on Form 8-K filed with the Securities and Exchange Commission on February 28, 2007)*
15.1	Awareness letter from Deloitte & Touche LLP
31.1	Certificate of Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, dated May 8, 2007
31.2	Certificate of Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of

1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, dated May 8, 2007

32.1 Certificate of Chief Executive Officer pursuant to Rule 13a-14(b)/15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, dated May 8, 2007

32.2 Certificate of Chief Financial Officer pursuant to Rule 13a-14(b)/15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, dated May 8, 2007

\* Incorporated by reference

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

### Asbury Automotive Group, Inc. (Registrant)

Date: May 8, 2007

By: /s/ CHARLES R. OGLESBY  
 Name: Charles R. Oglesby  
 Title: Chief Executive Officer and President

Date: May 8, 2007

By: /s/ J. GORDON SMITH  
 Name: J. Gordon Smith  
 Title: Senior Vice President and Chief Financial Officer  
 (Principal Financial Officer)

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## INDEX TO EXHIBITS

Exhibit Number	Description of Documents
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31.2	Certificate of Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, dated May 8, 2007
32.1	Certificate of Chief Executive Officer pursuant to Rule 13a-14(b)/15d-14(b) of the Securities Exchange Act of

32.2 1934 and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, dated May 8, 2007  
Certificate of Chief Financial Officer pursuant to Rule 13a-14(b)/15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, dated May 8, 2007

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\* Incorporated by reference

**ASBURY AUTOMOTIVE GROUP, INC.**

**and each of the Guarantors named herein**

**3.00% SENIOR SUBORDINATED CONVERTIBLE NOTES DUE 2012**

**INDENTURE**

**Dated as of March 16, 2007**

**THE BANK OF NEW YORK**

**as Trustee**

**CROSS-REFERENCE TABLE\***

<b>Trust Indenture Act Section</b>	<b>Indenture Section</b>
310(a)(1)	7.10
(a)(2)	7.10
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	N.A.
(b)	7.10
(c)	N.A.
311(a)	7.11
(b)	7.11
(c)	N.A.
312(a)	2.05
(b)	15.03
(c)	15.03
313(a)	7.06
(b)(1)	N.A.
(b)(2)	7.06, 7.07
(c)	7.06, 15.02
(d)	7.06
314(a)	4.03; 15.02
(b)	N.A.
(c)(1)	15.04
(c)(2)	15.04
(c)(3)	N.A.
(d)	N.A.
(e)	15.05
(f)	N.A.
315(a)	7.01
(b)	7.05, 15.02
(c)	7.01
(d)	7.01
(e)	6.11
316(a) (last sentence)	2.09
(a)(1)(A)	6.05
(a)(1)(B)	6.04
(a)(2)	N.A.
(b)	6.07
(c)	2.12

\* This Cross Reference Table is not a part of the Indenture.

N.A. means not applicable.

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<b>Trust Indenture Act Section</b>	<b>Indenture Section</b>
317(a)(1)	6.08
(a)(2)	6.09
(b)	2.04
318(a)	15.01
(b)	N.A.
(c)	15.01

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## SCHEDULES

Schedule I	Schedule of Guarantors
Schedule II	Additional Shares Table

INDENTURE dated as of March 16, 2007 among Asbury Automotive Group, Inc., a Delaware corporation (the “Company”), the subsidiary guarantors listed on Schedule I hereto (collectively, the “Guarantors”) and The Bank of New York, a New York banking corporation, as trustee (the “Trustee”).

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the 3.00% Senior Subordinated Convertible Notes due 2012 (the “Notes”):

ARTICLE 1  
DEFINITIONS AND INCORPORATION  
BY REFERENCE

Section 1.01. Definitions.

“Additional Notes” means additional notes (other than the Initial Notes) issued under this Indenture in accordance with Sections 2.02 and 2.14 hereof, as part of the same series as the Initial Notes.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control,” as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; *provided* that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control. For purposes of this definition, the terms “controlling,” “controlled by” and “under common control with” have correlative meanings.

“Agent” means any Registrar, Paying Agent or co-registrar.

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

“Attributable Debt” in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP.

“Bankruptcy Law” means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

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

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or is exercisable only upon the occurrence of a subsequent condition. The terms “Beneficially Owns” and “Beneficially Owned” have a corresponding meaning.

“Board of Directors” means (i) with respect to a corporation, the board of directors of the corporation; (ii) with respect to a partnership, the board of directors of the general partner of the partnership; and (iii) with respect to any other Person, the board or committee of such Person serving a similar function.

“Board Resolution” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification.

“Broker-Dealer” has the meaning set forth in the Registration Rights Agreement.

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

“Capital Lease Obligation” means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP.

“Capital Stock” means: (i) in the case of a corporation, corporate stock; (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (iii) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“Cash Equivalents” means (i) United States dollars; (ii) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (*provided* that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than six months from the date of acquisition; (iii) 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 which is organized under the laws of the United States, any state thereof or any foreign country recognized by the United States, and which bank or trust company has capital, surplus aggregating in excess of \$500.0 million 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 Rule 436 under the Securities Act) or any money-market fund sponsored by a registered broker dealer or mutual fund distributor; (iv) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (ii) and (iii) above entered into

with any financial institution meeting the qualifications specified in clause (iii) above; (v) commercial paper having the highest rating obtainable from Moody's Investors Service, Inc. or Standard & Poor's Ratings Services (or carrying an equivalent rating by another nationally recognized statistical rating organization (as defined under Rule 436 under the Securities Act) if both of such two rating agencies cease publishing ratings of investments) and maturing not more than 180 days from the date of acquisition; (vi) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (i) through (v) above; and (vii) in the case of any Subsidiary organized or having its principal place of business outside the United States, investments denominated in the currency of the jurisdiction

in which that Subsidiary is organized or has its principal place of business which are similar to the items specified in clauses (i) through (vi) above, including, without limitation, any deposit with a bank that is a lender to any Restricted Subsidiary of the Company.

“Clearstream” means ClearStream Bank S.A.

“Common Stock” means the common stock, par value \$0.01 per share, of the Company authorized at the date of this instrument as originally executed or as such stock may be constituted from time to time. Subject to the provisions of Section 13.10, shares issuable upon conversion of Notes shall include only shares of Common Stock or shares of any class or classes of common stock resulting from any reclassification or reclassifications thereof; *provided, however*, that if at any time there shall be more than one such resulting class, the shares so issuable on conversion of Notes shall include shares of all such classes, and the shares of each such class then so issuable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

“Company” means Asbury Automotive Group, Inc., and any and all successors thereto.

“Company Order” means a written order signed in the name of the Company by an Officer of the Company.

“Continuing Directors” means, as of any date of determination, any member of the Board of Directors of the Company who (i) was a member of such Board of Directors on the date of this Indenture; or (ii) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board at the time of such nomination or election.

“Conversion Obligation” means the obligation of the Company to deliver pursuant hereto, the consideration due under Article 13 upon a conversion of the Notes in accordance herewith.

“Conversion Price” means at any time the amount equal to \$1,000 divided by the then current Conversion Rate.

“Corporate Trust Office of the Trustee” shall be at the address of the Trustee specified in Section 15.02 hereof or such other address as to which the Trustee may give notice to the Company.

“Credit Agreement” means that Revolving Credit Agreement, dated as of March 23, 2005, among the Company, the Subsidiary Borrowers listed therein, as Borrowers, the Lenders listed therein, JPMorgan Chase Bank, N.A., as Administrative Agent and as Floor Plan Agent, and Bank of America, N.A., as Syndication Agent, as amended by the First Amendment to Credit Agreement and Waiver, effective as of March 1, 2006, and the Second Amendment to Credit Agreement, effective as of August 1, 2006, and the Third Amendment to Credit Agreement, effective as of March 8, 2007.

“Credit Facility” or “Credit Facilities” means, one or more debt facilities (including, without limitation, the Credit Agreement) or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, or letters of credit, in each case, as amended, extended, renewed, restated, supplemented, replaced or otherwise modified (in whole or in part, and without limitation as to amount, terms, conditions, covenants and other provisions, or lenders or holders) from time to time.

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

“Daily Cash Amount” has the meaning specified in the definition of Daily Settlement Amount.

“Daily Conversion Value” means for each of the 30 consecutive VWAP Trading Days during the Observation Period, one-thirtieth (1/30) of the product of (a) the applicable Conversion Rate and (b) the Daily VWAP of the Common Stock (or the Reference Property pursuant to Section 13.10) on such VWAP Trading Day, as determined by the Company. Any such determination by the Company shall be conclusive absent manifest error.

“Daily Settlement Amount” means, for each of the 30 VWAP Trading Days during the Observation Period,

(i) cash equal to the lesser of (x) \$33.33 in the case of the first 20 VWAP Trading Days or \$33.34 in the case of the last 10 VWAP Trading Days and (y) the Daily Conversion Value relating to such VWAP Trading Day (the “Daily Cash Amount”); and

(ii) if such Daily Conversion Value exceeds either \$33.33 in the case of the first 20 VWAP Trading Days or \$33.34 in the case of the last 10 VWAP Trading Days, a number of shares of Common Stock equal to (A) the difference between such Daily Conversion Value and \$33.33 or \$33.34, as applicable, divided by (B) the Daily VWAP of the Common Stock for such VWAP Trading Day, subject to adjustment pursuant to Section 13.04(m).

“Daily VWAP” means for each of the 30 consecutive VWAP Trading Days during the Observation Period, the per share volume-weighted average price as displayed under the heading “Bloomberg VWAP” on Bloomberg page ABG.N <equity> AQR (or any equivalent successor page) in respect

of the period from the scheduled open of trading on the principal trading market for the Common Stock to the scheduled close of trading on such market on such VWAP Trading Day (or if such volume-weighted average price is unavailable, the market value of one share of the Common Stock on such VWAP Trading Day using a volume-weighted method as determined by a nationally recognized independent investment banking firm retained for this purpose by the Company).

“Default” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

“Definitive Note” means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A

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hereto except that such Note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

“Depository” means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depository with respect to the Notes, and any and all successors thereto appointed as depository hereunder and having become such pursuant to the applicable provision of this Indenture.

“Designated Event” means the occurrence of either a Fundamental Change or a Termination of Trading.

“Designated Notes” means (a) the Company’s 8% Senior Subordinated Notes due 2014, (b) the Company’s 7.625% Senior Subordinated Notes due 2017 and (c) any other Indebtedness of the Company that is (i) in the form of, or represented by, bonds, notes, debentures or other securities (other than promissory notes or similar evidences of indebtedness under bank loans, reimbursement agreements, receivables facilities or floor plan facilities) or any guarantee thereof and (ii) is or may be, quoted, listed or purchased on any stock exchange, automated securities trading system or over-the-counter or other securities market, including, without limitation the PORTAL<sup>SM</sup> Market.

“Designated Senior Debt” means (i) any Obligation outstanding under the Credit Agreement and Floor Plan Facilities; and (ii) after payment in full of all Obligations under the Credit Agreement and Floor Plan Facilities, any other Senior Debt permitted under this Indenture the principal amount of which is \$25.0 million or more and that has been designated by the Company as “Designated Senior Debt.”

“Domestic Subsidiary” means any Restricted Subsidiary of the Company that was formed under the laws of the United States or any state of the United States or the District of Columbia.

“Equity Interests” means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

“Ex-Date” means, with respect to any issuance or distribution on the Common Stock or any other equity security, the first date on which the shares of the Common Stock or such other equity security trade on the relevant exchange or in the relevant market, regular way, without the right to receive such issuance or distribution.

“Existing Senior Subordinated Indentures” mean (i) that certain Indenture, dated as of June 5, 2002, governing the Company’s 9% Senior Subordinated Notes due 2012, as amended by that certain First Supplemental Indenture, dated as of March 19, 2003, that certain Second Supplemental Indenture, dated as of December 23, 2003, that certain Third Supplemental Indenture, dated as of December 7, 2004, that certain Fourth Supplemental Indenture, dated as of September 30, 2005, and that certain Fifth Supplemental Indenture, dated as of March 8, 2007 and (ii) that certain Indenture, dated as of December 23, 2003, governing the Company’s 8% Senior Subordinated Notes due 2014, as amended by that certain First Supplemental Indenture, dated as of January 21, 2004, that certain Second Supplemental Indenture, dated as of December 23,

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2003, that certain Third Supplemental Indenture, dated as of September 30, 2005 and that certain Fourth Supplemental Indenture, dated as of March 15, 2007.

“Existing Senior Subordinated Notes” means, as of any time of determination, notes outstanding at such time of determination issued by the Company under the Existing Senior Subordinated Indentures.

“Existing Senior Subordinated Notes Guarantees” means, as of any time of determination, guarantees outstanding at such time of determination entered into by Subsidiaries of the Company to guarantee the Company’s obligations under the Existing Senior Subordinated Indentures.

“Euroclear” means Euroclear Bank.

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

“Floor Plan Facility” means an agreement with Ford Motor Credit Company, General Motors Acceptance Corporation, DaimlerChrysler Services North America LLC or any other lending institution affiliated with a Manufacturer or any bank or asset-based lender under which the Company or its Restricted Subsidiaries incur Indebtedness, all of the net proceeds of which are used to purchase, finance or refinance vehicles and/or vehicle parts and supplies to be sold in the ordinary course of the business of the Company and its Restricted Subsidiaries and which may not be secured except by a Lien that does not extend to or cover any property other than property of the dealership(s) which use the proceeds of the Floor Plan Facility or other dealerships who have incurred Indebtedness from the same lender.

“Fundamental Change” means the occurrence of any of the following events:

- (a) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries, taken as a whole, to any “person” (as that term is used in Section 13(d)(3) of the Exchange Act);
- (b) the adoption of a plan relating to the liquidation or dissolution of the Company;
- (c) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any “person” (as defined in clause (a) above) becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company, measured by voting power rather than number of shares;
- (d) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors; or
- (e) the Company consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into, the Company, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of the Company or such other Person is converted into or exchanged for cash, securities or other property, other than any such transaction where the Voting Stock of the Company outstanding immediately prior to such

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transaction is converted into or exchanged for Voting Stock of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance).

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

“Global Notes” means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A hereto issued in accordance with Section 2.01 or 2.06 hereof.

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

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

“Guarantor” means any Subsidiary of the Company that guarantees the Notes in accordance with the provisions of this Indenture.

“Hedging Obligations” means, with respect to any specified Person, the obligations of such Person under (i) interest rate swap agreements, interest rate cap agreements and interest rate collar agreements; and (ii) other agreements or arrangements of a similar character designed to protect such Person against fluctuations in interest rates.

“Holder” means a Person in whose name a Note is registered on the Registrar’s books.

The term “incur” means to create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to any Indebtedness.

“Indebtedness” means, with respect to any specified Person, any indebtedness of such Person, whether or not contingent: (i) in respect of borrowed money; (ii) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof); (iii) in respect of banker’s acceptances; (iv) representing Capital Lease Obligations or Attributable Debt in respect of sale and leaseback transactions; (v) representing the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable; or (vi) representing any Hedging Obligations, if and to the extent any of the preceding items (other than letters of credit, Attributable Debt and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term “Indebtedness” includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person. The amount of

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any Indebtedness outstanding as of any date will be: (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount; or (2) the principal amount of the Indebtedness. Indebtedness shall not include the obligations of any Person (A) resulting from the endorsement of negotiable instruments for collection in the ordinary course of business and (B) under stand-by letters of credit to the extent collateralized by cash or Cash Equivalents.

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

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

“Initial Notes” means the first \$115,000,000 aggregate principal amount of Notes issued under this Indenture on the date hereof.

“Initial Purchasers” means Goldman, Sachs & Co. and Deutsche Bank Securities Inc.

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

“Interest Payment Date” means March 15 and September 15 of each year beginning September 15, 2007.

“Issue Date” means March 16, 2007.

“Last Reported Sale Price” means, with respect to the Common Stock or any other security for which a Last Reported Sale Price must be determined, on any date, the closing sale price per share of the Common Stock or unit of such other security (or, if no closing sale price is reported, the average of the last bid and last ask prices or, if more than one in either case, the average of the average last bid and the average last ask prices) on such date as reported in composite transactions for the principal United States national or regional securities exchange on which it is then traded, if any. If the Common Stock or such other security is not listed for trading on a United States national or regional securities exchange on the relevant date, the Last Reported Sale Price shall be the average of the last quoted bid and ask prices per share of Common Stock or such other security in the over-the-counter market on the relevant date, as reported by the Pink Sheets or similar organization. In absence of such quotation, the Last Reported Sale Price shall be the average of the mid-point of the last bid and ask prices for the Common Stock or such other security on the relevant date from each of at least three nationally recognized independent investment banking firms, which may include any or all of the Initial Purchasers, selected from time to time by the Company for that purpose. The Last Reported Sale Price shall be determined without reference to extended or after hours trading. Any such determination shall be made by the Company and shall be conclusive absent manifest error.

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

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payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of an agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

“Manufacturer” means a vehicle manufacturer which is a party to a dealership or national framework franchise agreement with the Company or a Restricted Subsidiary of the Company.

“Market Disruption Event” means the occurrence or existence on any Scheduled Trading Day for the Common Stock of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock, and such suspension or limitation occurs or exists at any time within the 30 minutes prior to the closing time of the relevant exchange on such day.

“Maturity,” when used with respect to any Notes, means the date on which the principal of such Notes becomes due and payable as therein or herein provided, whether on the Maturity Date or by declaration of acceleration, exercise of the repurchase right set forth in Article 14 or otherwise.

“Maturity Date” means, with respect to the Notes, September 15, 2012.

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

“Observation Period” means, with respect to any Notes:

(a) with respect to any Conversion Date occurring during the period beginning on the 35th Scheduled Trading Day prior to the Maturity Date, the 30 consecutive VWAP Trading Day period beginning on, and including, the 32nd Scheduled Trading Day prior to the Maturity Date (whether or not the Maturity Date is a Scheduled Trading Day) (or if such day is not a VWAP Trading Day, the next succeeding VWAP Trading Day); and

(b) in all other instances, the 30 consecutive VWAP Trading Day period beginning on, and including, the third VWAP Trading Day after the related Conversion Date in respect of such Notes.

“Obligations” means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

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“Offering” means the offering of the Notes by the Company.

“Officer” means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of such Person.

“Officers’ Certificate” means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Company, that meets the requirements of Section 15.05 hereof.

“Opinion of Counsel” means an opinion from legal counsel that meets the requirements of Section 15.05 hereof. The counsel may be an employee of or counsel to the Company or any Subsidiary of the Company.

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

“Permitted Junior Securities” means (i) Equity Interests in the Company or any Guarantor; or (ii) debt securities that are subordinated to all Senior Debt (and any debt securities issued in exchange for Senior Debt) to substantially the same extent as, or to a greater extent than, the Notes and the Subsidiary Guarantees are subordinated to Senior Debt under this Indenture.

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

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

“Principal Portion” in respect of a Note to be converted, means cash in an amount equal to the sum of Daily Cash Amounts for each of the 30 VWAP Trading Days during an Observation Period.

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

“Registration Rights Agreement” means the Registration Rights Agreement, dated as of March 16, 2007, by and among the Company and the other parties named on the signature pages thereof, as such agreement may be amended, modified or supplemented from time to time and, with respect to any Additional Notes, one or more registration rights agreements between the Company and the other parties thereto, as such agreement(s) may be amended, modified or supplemented from time to time, relating to rights given by the Company to the purchasers of Additional Notes to register such Additional Notes under the Securities Act.

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“Regular Record Date” for interest payable in respect of any Note on any Interest Payment Date means the March 1 or September 1 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date.

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

“Representative” means the indenture trustee or other trustee, agent or representative for any Senior Debt.

“Responsible Officer,” when used with respect to the Trustee, means any officer within the Corporate Trust Administration group of the Trustee (or any successor group of the Trustee) including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Restricted Definitive Note” means a Definitive Note bearing the Private Placement Legend.

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

“Restricted Subsidiary,” any Subsidiary of the Company that is a “Restricted Subsidiary” under any Designated Notes.

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

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

“Scheduled Trading Day” means a day that is scheduled to be a Trading Day on the principal United States national or regional securities exchange or market on which the Common Stock is listed or admitted for trading or, if the Common Stock is not listed or admitted for trading on any exchange or market, a Business Day.

“SEC” means the Securities and Exchange Commission.

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

“Senior Debt” means: (i) all Indebtedness of the Company or any Guarantor outstanding under Credit Facilities, and all Hedging Obligations with respect thereto, and under Floor Plan Facilities; (ii) any other Indebtedness of the Company or any Guarantor permitted to be incurred under the terms of this Indenture; and (iii) all Obligations with respect to the items listed in the preceding clauses (i) and (ii); unless in the case of clauses (i) and (ii), the instrument



under which such Indebtedness is incurred expressly provides that it is on a parity with or subordinated in right of payment to the Notes or any Subsidiary Guarantee, as the case may be.

Notwithstanding anything to the contrary in the preceding paragraph, Senior Debt will not include: (a) any liability for federal, state, local or other taxes owed or owing by the Company; (b) any intercompany Indebtedness of the Company or any of its Restricted Subsidiaries owing to the Company or any of its Affiliates; or (c) any trade payables.

“Senior Subordinated Indebtedness” means, with respect to any Person, the Notes and the Existing Senior Subordinated Notes (in the case of the Company), the Subsidiary Guarantees and the Existing Senior Subordinated Notes Guarantees (in the case of a Guarantor), and any other Indebtedness of such Person that specifically provides that such Indebtedness is to rank *pari passu* with the Notes, the Existing Senior Subordinated Notes or such Subsidiary Guarantee or Existing Senior Subordinated Notes Guarantee, as the case may be, in right of payment and is not subordinated by its terms in right of payment to any Indebtedness or other obligation of such Person which is not Senior Debt of such Person.

“Shelf Registration Statement” means the Shelf Registration Statement as defined in the Registration Rights Agreement.

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

“Special Interest” has the meaning provided in the Registration Rights Agreement.

“Stated Maturity” means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, but excluding any provision providing for any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

“Stock Price” means the price paid per share of Common Stock in connection with a Fundamental Change pursuant to which Additional Shares shall be added to the Conversion Rate as set forth in Section 13.01(e), which shall be equal to (i) if holders of Common Stock receive only cash in such Fundamental Change, the cash amount paid per share of Common Stock and (ii) in all other cases, the average of the Last Reported Sale Prices of the Common Stock over the ten consecutive Trading Day period ending on the Trading Day preceding the Effective Date of the Fundamental Change.

“Subsidiary” means, with respect to any specified Person (i) any corporation, limited liability company, association or other business entity whether now existing or hereafter formed or acquired of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and (ii) any partnership whether now existing or hereafter formed or acquired (A) the sole general partner or the managing general partner of which is such

Person or a Subsidiary of such Person or (B) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

“Subsidiary Guarantee” means a Guarantee by a Guarantor of the Company’s obligations with respect to the Notes.

“Termination of Trading” means the occurrence whereby the Common Stock, or any other Capital Stock or American Depositary Receipts in respect of shares of Capital Stock into which the Notes are convertible pursuant to the terms of this Indenture, are not listed for trading on a the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors).

“TIA” means the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa-77bbb) as in effect on the date on which this Indenture is qualified under the TIA.

“Trading Day” means a day during which (i) trading in the Common Stock generally occurs and (ii) there is no Market Disruption Event.

“Trading Price” with respect to any Notes, on any date of determination, means the average of the secondary market bid quotations obtained by the Trustee for \$2.0 million principal amount of such Notes at approximately 3:30 p.m., New York City time, on such determination date from three independent nationally recognized securities dealers, which may include any or all of the Initial Purchasers, selected by the Company; *provided* that if three such bids cannot reasonably be provided to the Trustee, but two such bids are provided, then the average of the two bids shall be used, and if only one such bid can reasonably be provided to the Trustee, that one bid shall be used. If at least one bid for \$2.0 million principal amount of the Notes cannot reasonably be provided to the Trustee by a nationally recognized securities dealer, then the trading price per \$1,000 principal amount of Notes shall be deemed to be less than 98% of the product of the Last Reported Sale Price of the Common Stock and the Conversion Rate in effect on such date of determination. Any such determination by the Trustee shall be conclusive absent manifest error.

“Trustee” means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

“Unrestricted Global Note” means a permanent Global Note substantially in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary, representing Notes that do not bear the Private Placement Legend.

“Unrestricted Definitive Note” means one or more Definitive Notes that do not bear and are not required to bear the Private Placement

Legend.

“Unrestricted Subsidiary” means any Subsidiary of the Company that is not a Restricted Subsidiary.

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“Voting Stock” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

“VWAP Market Disruption Event” means (i) a failure by the principal United States national or regional securities exchange or market on which the Common Stock is listed or admitted to trading to open for trading during its regular trading session or (ii) the occurrence or existence prior to 1:00 p.m. New York City time on any Scheduled Trading Day for the Common Stock for an aggregate one half-hour period of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock.

“VWAP Trading Day” means a day during which (i) trading in the Common Stock generally occurs on the principal United States national or regional securities exchange or market on which the Common Stock is listed or admitted for trading and (ii) there is no VWAP Market Disruption Event. If the Common Stock is not so listed or traded, then “VWAP Trading Day” shall mean “Business Day.”

Section 1.02. Other Definitions.

<u>Term</u>	<u>Defined in Section</u>
“Additional Shares”	13.01
“Adjusted Determination Date”	13.04
“Adjustment Event”	13.04
“Authentication Order”	2.02
“Conversion Agent”	2.03
“Conversion Date”	13.02
“Conversion Rate”	13.01
“Designated Event Expiration Time”	14.01
“Designated Event Repurchase Date”	14.01
“Designated Event Repurchase Notice”	14.01
“Designated Event Repurchase Price”	14.01
“Designated Event Repurchase Right Notice”	14.01
“Distributed Property”	13.04
“Dividend Threshold Amount”	13.04
“DTC”	2.03
“Effective Date”	13.01
“Event of Default”	6.01
“Measurement Period”	13.01
“Merger Event”	13.10
“Notice of Conversion”	13.02
“Payment Blockage Notice”	10.03
“Payment Default”	6.01
“Paying Agent”	2.03
“Reference Property”	13.10
“Registrar”	2.03
“Relevant Date”	13.04

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<u>Term</u>	<u>Defined in Section</u>
“Spin-Off”	13.04
“Successor Company”	5.01
“Trading Price Condition”	13.01
“Trigger Event”	13.04

Section 1.03. Incorporation by Reference of Trust Indenture Act.

This Indenture is subject to the mandatory provisions of the TIA, which are incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

“indenture securities” means the Notes;

“indenture security Holder” means a Holder of a Note;

“indenture to be qualified” means this Indenture;

“indenture trustee” or “institutional trustee” means the Trustee; and

“obligor” on the Notes and the Subsidiary Guarantees means the Company and the Guarantors, respectively, and any successor obligor upon the Notes and the Subsidiary Guarantees, respectively.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule under the TIA have the meanings so assigned to them.

Section 1.04. Rules of Construction.

Unless the context otherwise requires:

- (a) a term has the meaning assigned to it;
- (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (c) “or” is not exclusive;
- (d) words in the singular include the plural, and in the plural include the singular;
- (e) provisions apply to successive events and transactions; and

(f) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement of successor sections or rules adopted by the SEC from time to time.

ARTICLE 2  
THE NOTES

Section 2.01. Form and Dating.

(a) General. The Notes and the Trustee’s certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The Notes shall be in denominations of \$1,000 and integral multiples of \$1,000 in excess thereof.

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

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

(c) Definitive Notes. Notes issued in non-global form shall be substantially in the form of Exhibit A attached hereto except that such Note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

Section 2.02. Execution and Authentication.

An Officer shall sign the Notes for the Company by manual or facsimile signature.

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

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

On the Issue Date, the Trustee shall, upon a written order of the Company signed by an Officer (an “Authentication Order”), authenticate Notes for original issue up to \$115,000,000 in aggregate principal amount and, upon delivery of any Authentication Order at any time and from time to time thereafter, the Trustee shall authenticate Notes for original issue in an aggregate principal amount specified in such Authentication Order.

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

Section 2.03. Registrar, Paying Agent and Conversion Agent.

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

The Company initially appoints The Depository Trust Company (“DTC”) to act as Depository with respect to the Global Notes.

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

Section 2.04. Paying Agent to Hold Money in Trust.

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

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of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee shall serve as Paying Agent for the Notes.

Section 2.05. Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee in writing at least seven Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes and the Company shall otherwise comply with TIA § 312(a).

Section 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. All Global Notes will be exchanged by the Company for Definitive Notes if (i) the Company delivers to the Trustee notice from the Depository that it is unwilling or unable to continue to act as Depository or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depository is not appointed by the Company within 120 days after the date of such notice from the Depository or (ii) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee. Upon the occurrence of either of the preceding events in (i) or (ii) above, Definitive Notes shall be issued in such names as the Depository shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b) or (c) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depository, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to the restrictions set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note.

No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depository to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(g) hereof.

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

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

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

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

(A) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement; or

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(B) the Registrar receives the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(B) the Registrar receives the following:

(1) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Definitive Note that does not bear the Private Placement Legend, a

certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(2) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a Definitive Note that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

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

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

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

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

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

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effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

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

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

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

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

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of the appropriate Restricted Global Note.

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

(A) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(B) the Registrar receives the following:

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

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

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

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

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

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

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

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

(A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof; or

(B) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the

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certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

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

(A) any such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(B) the Registrar receives the following:

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

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

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

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

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

(i) Private Placement Legend.

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

“THIS NOTE AND ANY COMMON STOCK ISSUABLE UPON THE CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE SOLD OR

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OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS NOTE IS HEREBY NOTIFIED THAT THE SELLER OF THIS NOTE MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.

THIS NOTE AND ANY COMMON STOCK ISSUABLE UPON THE CONVERSION OF THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) (1) TO A PERSON WHO THE TRANSFEROR REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT ACQUIRING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (3) TO AN INSTITUTIONAL INVESTOR THAT IS AN ACCREDITED INVESTOR WITHIN THE MEANING OF RULE 501(a)(1), (2), (3) OR (7) OF REGULATION D UNDER THE SECURITIES ACT PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT (IF AVAILABLE) OR (4) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

THIS NOTE, ANY SHARES OF COMMON STOCK ISSUABLE UPON ITS CONVERSION AND ANY RELATED DOCUMENTATION MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY THE RESTRICTIONS ON REALES AND OTHER TRANSFERS OF THIS NOTE AND ANY SUCH SHARES TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE OR TRANSFER OF RESTRICTED SECURITIES GENERALLY. THE HOLDER OF



THIS NOTE AND SUCH SHARES SHALL BE DEEMED BY THE ACCEPTANCE OF THIS NOTE AND ANY SUCH SHARES TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.”

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

(ii) Global Note Legend. Each Global Note shall bear a legend in substantially the following form:

“THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.07 OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE

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MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.”

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

(h) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Company’s order or at the Registrar’s request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10 and 9.05 hereof).

(iii) The Registrar shall not be required to register the transfer of or exchange any Note surrendered for conversion in whole or in part, except the unsurrendered portion of any Note being redeemed in part.

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

(v) The Company shall not be required (A) to issue, to register the transfer of or to exchange any Notes surrendered for conversion during a period beginning at the opening of business 15 days before the day of any surrender of Notes for conversion pursuant to Article 13 and ending at the close of business on the day of surrender, (B) to register the transfer of or to exchange or convert any Note so surrendered for conversion in whole or in part, except the unsurrendered portion of any Note being converted in part or (C) to register the transfer of or to exchange or convert a Note between a record date and the next succeeding Interest Payment Date.

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

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

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

(ix) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depositary Participants or Beneficial Owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Section 2.07. Replacement Notes.

If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall authenticate, upon receipt of an Authentication Order, a replacement Security. If required by the Trustee or the Company, such Holder shall furnish an indemnity bond sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee, the Paying Agent, the Registrar and any co-registrar from any loss which any of them may suffer if a Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note.

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

Section 2.08. Outstanding Notes.

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

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If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Note is held by a bona fide purchaser.

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

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) segregates and holds in trust, in accordance with this Indenture, on a repurchase date or maturity date money sufficient to pay all principal and interest payable on that date with respect to the Notes (or portions thereof) to be repurchased or maturing, as the case may be, and the Paying Agent is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture, then on and after that date such Notes (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

Section 2.09. Treasury Notes.

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

Section 2.10. Temporary Notes.

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

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

Section 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel and dispose of such Notes in its customary manner (subject to the record retention requirements of the Exchange Act) all Notes surrendered for registration of transfer, exchange, payment or cancellation and deliver a certificate of such disposal to the Company unless the Company directs the Trustee to deliver canceled Notes to the Company. Certification of the disposition of all canceled Notes shall be delivered to the Company. The Company may not issue new Notes to replace Notes that it has redeemed or paid or that have been delivered to the Trustee for cancellation.

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Section 2.12. Defaulted Interest.

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

Section 2.13. CUSIP Numbers.

The Company in issuing the Notes may use “CUSIP” numbers (if then generally in use) and, if so, the Trustee shall use “CUSIP” numbers in notices of repurchase as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a repurchase and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee of any change in the CUSIP numbers.

Section 2.14. Issuance of Additional Notes.

The Company shall be entitled to issue Additional Notes under this Indenture which shall have identical terms as the Initial Notes, other than with respect to the date of issuance and issue price in an unlimited aggregate principal amount. The Initial Notes and any Additional Notes shall be treated as a single class for all purposes under this Indenture.

With respect to any Additional Notes, the Company shall set forth in a resolution of the Board of Directors and an Officers’ Certificate, a copy of each which shall be delivered to the Trustee, the following information:

- (a) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture;
- (b) the issue price, the issue date and the CUSIP number of such Additional Notes; *provided* that no Additional Notes may be issued unless fungible with the Initial Notes for U.S. federal income tax purposes; and
- (c) whether such Additional Notes shall be transfer restricted notes and issued in the form of Initial Notes as set forth in Section 2.02 this Indenture.

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ARTICLE 3  
REDEMPTION

Section 3.01. No Redemption or Sinking Fund.

The Notes may not be redeemed at the option of the Company prior to Maturity. The Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

ARTICLE 4  
COVENANTS

Section 4.01. Payment of Notes.

The Company shall pay or cause to be paid the principal of, and interest on, the Notes on the dates and in the manner provided in the Notes. Principal and interest shall be considered paid on the date due if the Paying Agent, other than the Company or a Subsidiary thereof or an Affiliate of any thereof, holds as of 10:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal and interest then due. The Company shall pay all Special Interest, if any, in the same manner on the dates and in the amounts set forth in the Registration Rights Agreement.

Interest on the Notes shall be computed on the basis of a 360 day year of twelve 30-day months.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to 1% per annum in excess of the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Special Interest (without regard to any applicable grace period) at the same rate to the extent lawful.

Section 4.02. Maintenance of Office or Agency.

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

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

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written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

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

Section 4.03. Reports.

(a) Whether or not required by the rules and regulations of the SEC, so long as any Notes are outstanding, the Company shall furnish to the Holders (i) all quarterly and annual financial information that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K if the Company were required to file such forms, including a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and, with respect to the annual information only, a report on the annual financial statements by the Company’s certified independent accountants and (ii) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports, in each case, within the time periods specified in the SEC’s rules and regulations. In addition, after the Shelf Registration Statement becomes effective, whether or not required by the SEC, the Company shall file a copy of all the information and reports referred to in clauses (i) and (ii) hereof with the SEC for public availability within the time periods specified in the SEC’s rules and regulations (unless the SEC will not accept such a filing) and make such information available to securities analysts and prospective investors upon request. The Company shall at all times comply with TIA § 314(a).

(b) For so long as any Notes remain outstanding, the Company and the Guarantors shall furnish to the Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(c) Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee’s receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company’s compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers’ Certificates).

Section 4.04. Compliance Certificate.

(a) The Company and each Guarantor (to the extent that such Guarantor is so required under the TIA) shall deliver to the Trustee, within 90 days after the end of each fiscal year, an Officers’ Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has

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occurred and remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto.

(b) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, forthwith upon any Officer becoming aware of any Default or Event of Default, an Officers’ Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.05. Payment of Taxes and Other Claims.

The Company shall pay, and shall cause each of its Restricted Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment would not reasonably be expected to be materially adverse to the interests of the Holders of the Notes.

Section 4.06. Stay, Extension and Usury Laws.

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

Section 4.07. Corporate Existence.

Subject to Article 5 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its corporate existence, and the corporate, partnership or other existence of each of its Restricted Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Restricted Subsidiary and (ii) the rights (charter and statutory), licenses and franchises of the Company and its Restricted Subsidiaries; *provided* that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Restricted Subsidiaries, if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

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ARTICLE 5  
SUCCESSORS

Section 5.01. Merger, Consolidation, or Sale of Assets.

The Company shall not, directly or indirectly (1) consolidate or merge with or into another Person (whether or not the Company is the surviving corporation), or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole, in one or more related transactions to, another Person, unless (i) either (A) the Company is the surviving corporation or (B) the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, conveyance or other disposition shall have been made is a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia (any such Person, the “Successor Company”), (ii) the Successor Company assumes all the obligations of the Company under the Notes, this Indenture and the Registration Rights Agreement pursuant to agreements reasonably satisfactory to the Trustee, and (iii) immediately after such transaction no Default exists. In addition, the Company shall not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person. The provisions of this Section 5.01 shall not be applicable to a sale, assignment, transfer, conveyance or other disposition of assets between or among the Company and any of the Guarantors.

Section 5.02. Successor Company Substituted.

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company in accordance with Section 5.01 hereof, the Successor Company shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the “Company” shall refer instead to the Successor Company and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; *provided* that the predecessor Company shall not be relieved from the obligation to pay the principal of and interest and Special Interest, if any, on the Notes except in the case of a sale, assignment, transfer, conveyance or other disposition of all of the Company’s properties or assets that meets the requirements of Section 5.01 hereof.

ARTICLE 6  
DEFAULTS AND REMEDIES

Section 6.01. Events of Default.

An “Event of Default” occurs if:

(a) the Company defaults in the payment when due of interest on, or Special Interest, if any, with respect to, the Notes and such default continues for a period of 30 days, whether or not such payment shall be prohibited by Article 10 hereof;

(b) the Company defaults in the payment when due of principal of the Notes when the same becomes due and payable at maturity, upon redemption (including in connection

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with an offer to purchase) or otherwise, whether or not such payment shall be prohibited by Article 10 hereof;

(c) the Company fails to comply with the Conversion Obligation;

(d) the Company fails to comply with any of the provisions of Section 5.01 hereof;

(e) failure by the Company to comply in any material respect with its notice requirements under or Section 13.01(b) through (d) or Section 14.01(b) when due;

(f) the Company fails to observe or perform any covenant or agreement in this Indenture for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class;

(g) a default occurs under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), whether such Indebtedness or guarantee now exists, or is created after the date of this Indenture, which default is caused by a failure to pay principal at its stated final maturity (after giving effect to any applicable grace period provided in such Indebtedness) (a “Payment Default”) or results in the acceleration of such Indebtedness prior to its express maturity and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$15.0 million or more;

(h) a final judgment or final judgments for the payment of money are entered by a court or courts of competent jurisdiction against the Company or any of its Restricted Subsidiaries, and such judgment or judgments remain not paid, discharged or stayed for a period of 60 days, *provided* that the aggregate of all such not paid, discharged or stayed judgments exceeds \$15.0 million;

(i) except as permitted by this Indenture, any Subsidiary Guarantee is held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor, or any Person acting on behalf of any Guarantor, shall deny or disaffirm its obligations under such Guarantor’s Subsidiary Guarantee;

(j) the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary or any Restricted Subsidiaries of the Company that taken together would constitute a Significant Subsidiary of the Company;

- (i) commences a voluntary case,
- (ii) consents to the entry of an order for relief against it in an involuntary case,

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- (iii) consents to the appointment of a custodian of it or for all or substantially all of its property,
  - (iv) makes a general assignment for the benefit of its creditors, or
  - (v) generally is not paying its debts as they become due; or
- (k) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary or any Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary of the Company in an involuntary case;

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

(iii) orders the liquidation of the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary or any Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary of the Company;

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

Section 6.02. Acceleration.

If any Event of Default (other than an Event of Default specified in clause (j) or (k) of Section 6.01 hereof with respect to the Company, any Restricted Subsidiary of the Company or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary) occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Upon any such declaration, the Notes shall become due and payable immediately. Upon any such declaration the Notes shall become due and payable immediately. Notwithstanding the foregoing, if an Event of Default specified in clause (j) or (k) of Section 6.01 hereof occurs with respect to the Company, any Restricted Subsidiary of the Company or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, all outstanding Notes shall be due and payable immediately without further action or notice. The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of all of the Holders rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal or interest that has become due solely because of the acceleration) have been cured or waived.

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Section 6.03. Other Remedies.

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

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

No right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.04. Waiver of Past Defaults.

Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal of, and Special Interest, if any, or interest on, the Notes including in connection with an offer to purchase (other than the non-payment of principal of or interest or Special Interest, if any, on the Notes that became due solely because of the acceleration of the Notes) (provided that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05. Control by Majority.

The holders of a majority in principal amount of the Notes then outstanding shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee, with respect to the Notes, *provided that*

- (i) such direction shall not be in conflict with any rule of law or with this Indenture, and
- (ii) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

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Section 6.06. Limitation on Suits.

A Holder of a Note may pursue a remedy with respect to this Indenture or the Notes only if:

- (a) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;
- (b) the Holders of at least 25% in principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;
- (c) such Holder of a Note or Holders of Notes offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;
- (d) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of indemnity; and
- (e) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07. Rights of Holders of Notes to Receive Payment.

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

Section 6.08. Collection Suit by Trustee.

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

Section 6.09. Trustee May File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or

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deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10. Priorities.

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

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

Second: subject to the provisions of Article 10 hereof, to Holders of Notes for amounts due and unpaid on the Notes for principal, Special Interest, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, Special Interest, if any and interest, respectively; and

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

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

Section 6.11. Undertaking for Costs.

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

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ARTICLE 7  
TRUSTEE

Section 7.01. Duties of Trustee.

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

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

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

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, with respect to certificates or opinions specifically required by any provision hereof to be furnished to it hereunder, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein).

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

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

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

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

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

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

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

Section 7.02. Rights of Trustee.

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

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee



may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or gross negligence of any agent or attorney appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

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

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

(g) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(h) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

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(i) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

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

(k) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

Section 7.03. Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee.

In the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee or resign. Any Agent may do the same with like rights and duties. If the Trustee fails to eliminate such conflicting interest, obtain said permission or resign within the ten days after the conclusion of such 90-day period, the Trustee shall provide notice to the Holders of this effect, and any Holder that has been a *bona fide* Holder for at least six months prior to the delivery of such notice shall have the right to petition a court of competent jurisdiction to remove the Trustee and appoint a successor Trustee. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

Section 7.04. Trustee's Disclaimer.

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

Section 7.05. Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if it is actually known to a Responsible Officer of the Trustee, the Trustee shall mail to Holders of Notes a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, or interest on, any Note, the Trustee may withhold

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the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

Section 7.06. Reports by Trustee to Holders of the Notes.

Within 60 days after each May 15 beginning with the May 15 following the date of this Indenture, and for so long as Notes remain outstanding, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA § 313(a) (but if no event described in TIA § 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with TIA § 313(b)(2). The Trustee shall also transmit by mail all reports as required by TIA § 313(c).

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Company and filed with the SEC and each stock exchange on which the Notes are listed in accordance with TIA § 313(d). The Company shall promptly notify the Trustee when the Notes are listed on any securities exchange or delisted therefrom.

Section 7.07. Compensation and Indemnity.

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

The Company and the Guarantors, jointly and severally, shall fully indemnify the Trustee against any and all losses, liabilities, claims, damages or expenses incurred by it, without negligence, willful misconduct or bad faith, arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this Section 7.07) and defending itself against any claim (whether asserted by the Company or any Holder or any other person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense has been determined to have been caused by its own negligence, willful misconduct or bad faith. The Trustee shall notify the Company promptly of any claim of which it has received notice for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee shall reasonably cooperate in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. The Company need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through its own negligence, willful misconduct or bad faith.

The obligations of the Company under this Section 7.07 shall survive the satisfaction and discharge of this Indenture.

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

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

The Trustee shall comply with the provisions of TIA § 313(b)(2) to the extent applicable.

Section 7.08. Replacement of Trustee.

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

The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

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

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

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

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

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

Section 7.09. Successor Trustee by Merger, etc.

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

Section 7.10. Eligibility; Disqualification.

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$50 million as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA § 310(a)(1) and (2). The Trustee is subject to TIA § 310(b).

Section 7.11. Preferential Collection of Claims Against Company.

The Trustee is subject to TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein.

ARTICLE 8  
[RESERVED]

ARTICLE 9  
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01. Without Consent of Holders of Notes.

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

(a) to cure any ambiguity, defect or inconsistency or to make a modification of a formal, minor or technical nature or to correct a manifest error;

(b) to provide for uncertificated Notes in addition to or in place of certificated Notes or to alter the provisions of Article 2 hereof (including the related definitions) in a manner that does not materially adversely affect any Holder;

(c) to provide for the assumption of the Company's obligations to the Holders of the Notes by a successor to the Company pursuant to Article 5 or hereof;

(d) to add Guarantees with respect to the Notes or to secure the Notes;

(e) to add to the covenants of the Company or any Guarantor for the benefit of the Holders of the Notes or surrender any right or power conferred upon the Company or any Guarantor;

(f) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder of a Note;

(g) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA;

(h) to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee pursuant to the requirements hereof; or

(i) to provide for the conversion of the Notes pursuant to Section 13.10(a).

However, no amendment may be made to Article 10 of this Indenture that adversely affects the rights of any holder of Senior Debt of the Company or a Guarantor then outstanding unless the holders of such Senior Debt (or their representative) consent to such change.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Company and the

Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02. With Consent of Holders of Notes.

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture, the Subsidiary Guarantees and the Notes with the consent of the Holders of at least a majority in principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision

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of this Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including Additional Notes, if any) voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Without the consent of at least 75% in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, such Notes), no waiver or amendment to this Indenture may make any change in the provisions of Article 10 hereof that adversely affects the rights of any Holder of Notes. Section 2.08 hereof shall determine which Notes are considered to be “outstanding” for purposes of this Section 9.02.

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

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

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

- (a) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;
- (b) reduce the rate, or extend the Stated Maturity, of interest on any Note;
- (c) reduce the principal, or extend the Stated Maturity, of any Note;
- (d) reduce the consideration payable upon conversion other than in accordance with this Indenture, or otherwise impair the right of a Holder to convert the Notes;
- (e) reduce the Designated Event Repurchase Price of any Note or amend or modify in any manner adverse to the Holders of Notes the Company’s obligation to make such payments, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;

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(f) waive a Default or Event of Default in the payment of principal of, or interest or premium, or Special Interest, if any, on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the Payment Default that resulted from such acceleration);

- (g) make any Note payable in money other than that stated in the Notes;

(h) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, or interest or premium or Special Interest, if any, on the Notes;

- (i) waive a redemption payment with respect to any Note (other than pursuant to the provisions of Article 14);

(j) release any Guarantor from any of its obligations under its Subsidiary Guarantee or this Indenture, except in accordance with the terms of this Indenture; or

- (k) make any change in the foregoing amendment and waiver provisions.

Section 9.03. Compliance with Trust Indenture Act.

Every amendment or supplement to this Indenture or the Notes shall be set forth in an amended or supplemental indenture that complies with the TIA as then in effect.

Section 9.04. Revocation and Effect of Consents.

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

Section 9.05. Notation on or Exchange of Notes.

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

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

Section 9.06. Trustee to Sign Amendments, etc.

The Trustee shall sign any amended or supplemental indenture authorized pursuant to this Article 9 if the amendment or supplement does not affect the rights, duties,

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liabilities or immunities of the Trustee. The Company may not sign an amendment or supplemental indenture until the Board of Directors approves it. In executing any amended or supplemental indenture, the Trustee shall be provided with and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 15.04 hereof, an Officers' Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture.

ARTICLE 10  
SUBORDINATION

Section 10.01. Agreement to Subordinate.

The Company agrees, and each Holder by accepting a Note agrees, that the Indebtedness evidenced by the Notes is subordinated in right of payment, to the extent and in the manner provided in this Article 10, to the prior payment in full in cash or Cash Equivalents of all Senior Debt (whether outstanding on the date hereof or hereafter created, incurred, assumed or guaranteed), and that the subordination is for the benefit of the holders of Senior Debt.

Section 10.02. Liquidation; Dissolution; Bankruptcy.

Upon any distribution to creditors of the Company in a liquidation or dissolution of the Company or in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Company or its property, in an assignment for the benefit of creditors or any marshaling of the Company's assets and liabilities:

(i) holders of Senior Debt shall be entitled to receive payment in full of all Obligations due in respect of such Senior Debt (including interest after the commencement of any such proceeding at the rate specified in the applicable Senior Debt) before Holders of the Notes shall be entitled to receive any payment with respect to the Notes (except that Holders may receive Permitted Junior Securities); and

(ii) until all Obligations with respect to Senior Debt (as provided in clause (i) above) are paid in full, any distribution to which Holders would be entitled but for this Article 10 shall be made to holders of Senior Debt (except that Holders of Notes may receive Permitted Junior Securities), as their interests may appear.

Section 10.03. Default on Designated Senior Debt.

(a) The Company may not make any payment or distribution to the Trustee or any Holder in respect of Obligations with respect to the Notes and may not acquire from the Trustee or any Holder any Notes for cash or property (other than Permitted Junior Securities) until all principal and other Obligations with respect to the Senior Debt have been paid in full if:

(i) a default in the payment of Designated Senior Debt occurs and is continuing beyond any applicable period of grace; or

(ii) a default, other than a payment default, on any series of Designated Senior Debt occurs and is continuing that then permits holders of the Designated Senior Debt to accelerate its maturity and the Trustee receives a notice of the

default (a “Payment Blockage Notice”) from the Company or the holders of any such Designated Senior Debt or their representative. If the Trustee receives any such Payment Blockage Notice, no subsequent Payment Blockage Notice shall be effective for purposes of this Section unless and until (A) at least 360 days shall have elapsed since the delivery of the immediately prior Payment Blockage Notice and (B) all scheduled payments of principal of, interest and Special Interest, if any, on, the Notes that have come due have been paid in full in cash. No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the Trustee shall be, or be made, the basis for a subsequent Payment Blockage Notice unless such default shall have been cured or waived for a period of not less than 180 days.

(b) The Company shall resume payments on and distributions in respect of the Notes and may acquire them upon the earlier of:

(i) in the case of a default referred to in clause (i) of Section 10.03(a) hereof, the date upon which the default is cured or waived, or

(ii) in the case of a default referred to in clause (ii) of Section 10.03(a) hereof, upon the earlier of the date on which such non-payment default is cured or waived or 179 days pass after the date on which the applicable Payment Blockage Notice is received, unless the maturity of such Designated Senior Debt has been accelerated,

if this Article 10 otherwise permits the payment, distribution or acquisition at the time of such payment or acquisition.

Section 10.04. Acceleration of Notes.

If payment of the Notes is accelerated because of an Event of Default, the Company shall promptly notify holders of Senior Debt of the acceleration.

Section 10.05. When Distribution Must Be Paid Over.

In the event that the Trustee or any Holder receives any payment of any Obligations with respect to the Notes at a time when the Trustee or such Holder, as applicable, has actual knowledge that such payment is prohibited by Section 10.03 hereof, such payment shall be held by the Trustee or such Holder, in trust for the benefit of, and shall be paid forthwith over and delivered, upon written request, to, the holders of Senior Debt as their interests may appear or their Representative under the indenture or other agreement (if any) pursuant to which Senior Debt may have been issued, as their respective interests may appear, for application to the payment of all Obligations with respect to Senior Debt remaining unpaid to the extent necessary to pay such Obligations in full in accordance with their terms, after giving effect to any concurrent payment or distribution to or for the holders of Senior Debt.

With respect to the holders of Senior Debt, the Trustee undertakes to perform only such obligations on the part of the Trustee as are specifically set forth in this Article 10, and no implied covenants or obligations with respect to the holders of Senior Debt shall be read into this Indenture against the Trustee. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Debt, and shall not be liable to any such holders if the Trustee shall pay over

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or distribute to or on behalf of Holders or the Company or any other Person money or assets to which any holders of Senior Debt shall be entitled by virtue of this Article 10.

Section 10.06. Notice by Company.

The Company shall promptly notify the Trustee and the Paying Agent of any facts known to the Company that would cause a payment of any Obligations with respect to the Notes to violate this Article 10, but failure to give such notice shall not affect the subordination of the Notes to the Senior Debt as provided in this Article 10.

Section 10.07. Subrogation.

After all Senior Debt is paid in full and until the Notes are paid in full, Holders of Notes shall be subrogated (equally and ratably with all other Indebtedness *pari passu* with the Notes) to the rights of holders of Senior Debt to receive distributions applicable to Senior Debt to the extent that distributions otherwise payable to the Holders of Notes have been applied to the payment of Senior Debt. A distribution made under this Article 10 to holders of Senior Debt that otherwise would have been made to Holders of Notes is not, as between the Company and Holders, a payment by the Company on the Notes.

Section 10.08. Relative Rights.

This Article 10 defines the relative rights of Holders of Notes and holders of Senior Debt. Nothing in this Indenture shall:

(i) impair, as between the Company and Holders of Notes, the obligation of the Company, which is absolute and unconditional, to pay principal of and interest on the Notes in accordance with their terms;

(ii) affect the relative rights of Holders of Notes and creditors of the Company other than their rights in relation to holders of Senior Debt; or

(iii) prevent the Trustee or any Holder of Notes from exercising its available remedies upon a Default or Event of Default, subject to the rights of holders and owners of Senior Debt to receive distributions and payments otherwise payable to Holders of Notes.

If the Company fails because of this Article 10 to pay principal of or interest on a Note on the due date, the failure is still a Default or Event of Default.

Section 10.09. Subordination May Not Be Impaired by Company.

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Section 10.10. Distribution or Notice to Representative.

Whenever a distribution is to be made or a notice given to holders of Senior Debt, the distribution may be made and the notice given to their Representative.

Upon any payment or distribution of assets of the Company referred to in this Article 10, the Trustee and the Holders of Notes shall be entitled to rely upon any order or decree made by any court of competent jurisdiction or upon any certificate of such Representative or of the liquidating trustee or agent or other Person making any distribution to the Trustee or to the Holders of Notes for the purpose of ascertaining the Persons entitled to participate in such distribution, the holders of the Senior Debt and other Indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article 10.

Section 10.11. Rights of Trustee and Paying Agent.

Notwithstanding the provisions of this Article 10 or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts that would prohibit the making of any payment or distribution by the Trustee, and the Trustee and the Paying Agent may continue to make payments on the Notes, unless the Trustee shall have received at its Corporate Trust Office of the Trustee at least five Business Days prior to the date of such payment written notice of facts that would cause the payment of any Obligations with respect to the Notes to violate this Article 10. Nothing in this Article 10 shall impair the claims of, or payments to, the Trustee under or pursuant to Section 7.07 hereof.

The Trustee in its individual or any other capacity may hold Senior Debt with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights.

Section 10.12. Authorization to Effect Subordination.

Each Holder of Notes, by the Holder's acceptance thereof, authorizes and directs the Trustee on such Holder's behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article 10, and appoints the Trustee to act as such Holder's attorney-in-fact for any and all such purposes. If the Trustee does not file a proper proof of claim or proof of debt in the form required in any proceeding referred to in Section 6.09 hereof at least 30 days before the expiration of the time to file such claim, the Representatives are hereby authorized to file an appropriate claim for and on behalf of the Holders of the Notes.

Section 10.13. Amendments.

The provisions of this Article 10 shall not be amended or modified in a manner that adversely affects the rights of any holder of Senior Debt without the written consent of the holder of such Senior Debt (or their representative).

Section 10.14. Reliance on Judicial Order or Certificate of Liquidating Agent.

Upon any payment or distribution of assets of the Company referred to in this Article, the Trustee, subject to the provisions of Section 7.01, and the Holders of the Securities shall be entitled to conclusively rely upon any order or decree entered by any court of competent

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jurisdiction in which such insolvency, bankruptcy, receivership, liquidation, reorganization, dissolution, winding up or similar case or proceeding is pending, or a certificate of the trustee in bankruptcy, liquidating trustee, Custodian, receiver, assignee for the benefit of creditors, agent or other person making such payment or distribution, delivered to the Trustee or to the Holders of Securities, for the purpose of ascertaining the persons entitled to participate in such payment or distribution, the holders of Senior Indebtedness and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article.

ARTICLE 11  
SUBSIDIARY GUARANTEES

Section 11.01. Guarantees.

Subject to this Article 11, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that: (a) the principal of, and interest and Special Interest, if any, on, the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of, and interest and Special Interest, if any, on, the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. In addition to the foregoing, each Guarantor also agrees, unconditionally and jointly and severally with each other Guarantor, to pay any and all expenses (including, without limitation, counsel fees and expenses) incurred by the Trustee under this Indenture in enforcing any rights under a Subsidiary Guarantee with respect to a Guarantor. Failing payment when due of any amount so guaranteed or any

performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

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

If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or

such Holder, this Subsidiary Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

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

The Subsidiary Guarantees represent full and unconditional guarantees by the Guarantors on an unsecured and senior subordinated basis of the payment of principal of and interest and Special Interest, if any, on the Notes. Upon conversion of the Notes pursuant to Article 13, the Subsidiary Guarantees will be deemed to be released and extinguished.

Section 11.02. Subordination of Subsidiary Guarantees.

The Obligations of each Guarantor under its Subsidiary Guarantee pursuant to this Article 11 shall be junior and subordinated to the Senior Debt of such Guarantor on the same basis as the Notes are junior and subordinated to Senior Debt of the Company as set forth in Article 10 hereof. Each Subsidiary Guarantee is made subject to the provisions of Article 10 hereof. For the purposes of the foregoing sentence, the Trustee and the Holders shall have the right to receive and/or retain payments by any of the Guarantors only at such times as they may receive and/or retain payments in respect of the Notes pursuant to this Indenture, including Article 10 hereof.

Section 11.03. Limitation on Guarantor Liability.

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Subsidiary Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 11, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent transfer or conveyance.

Section 11.04. Execution and Delivery of Subsidiary Guarantees.

To evidence its Subsidiary Guarantee set forth in Section 11.01, each Guarantor hereby agrees that a notation of such Subsidiary Guarantee substantially in the form included in Exhibit E shall be endorsed by an Officer of such Guarantor or by its duly appointed attorney-in-fact on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of such Guarantor by its President or one of its Vice Presidents or by its duly appointed attorney-in-fact.

Each Guarantor hereby agrees that its Subsidiary Guarantee set forth in Section 11.01 shall remain in full force and effect notwithstanding any failure to endorse on each Subsidiary a notation of such Subsidiary Guarantee. The execution of a Subsidiary Guarantee on behalf of a Guarantor by its attorney-in-fact shall constitute a representation and warranty on the part of such Guarantor hereunder of the due appointment of such attorney-in-fact.

If an Officer or duly appointed attorney-in-fact whose signature is on this Indenture or on a Subsidiary Guarantee no longer holds that office or maintains such appointment, as the case may be, at the time the Trustee authenticates the Note on which a Subsidiary Guarantee is endorsed, the Subsidiary Guarantee shall be valid nevertheless.

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



In the event of (i) a sale or other disposition of all or substantially all of the assets of any Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all of the capital stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transactions) the Company or any other Guarantor, (ii) a termination of one or more Guarantees by any Guarantor of any other Senior Subordinated Indebtedness of the Company or any other Guarantor which results in such Guarantor no longer being subject to any Guarantee of any other Senior Subordinated Indebtedness of the Company or any other Guarantor or (iii) any Guarantor ceasing to be a Restricted Subsidiary, then such Guarantor (in the event described in clauses (i) and (iii) of this paragraph) or the corporation acquiring the property (in the event described in clause (ii) of this paragraph) will be released and relieved of any obligations under its Subsidiary Guarantee. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture, the Trustee shall execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee.

Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 11.

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ARTICLE 12  
DISCHARGE

Section 12.01. Discharge of Liability on Notes.

When (1) the Company shall deliver to the Registrar for cancellation all Notes then outstanding not theretofore delivered to the Registrar for cancellation or (2) all the Notes then outstanding not theretofore delivered to the Registrar for cancellation shall have (a) been deposited for conversion (after all related Observation Periods have elapsed) and the Company shall deliver to the Holders cash and, if applicable, shares of Common Stock sufficient to pay all amounts owing in respect of all such Notes or (b) become due and payable on the Maturity Date, Designated Event Repurchase Date or otherwise, and the Company shall deposit with the Trustee cash sufficient to pay all amounts owing in respect of all such Notes, including the principal amount and interest accrued and unpaid to the Maturity Date, Designated Event Repurchase Date or other such date, and if in either case (1) or (2) the Company shall also pay or cause to be paid all other sums payable hereunder by the Company, then this Indenture with respect to the Notes shall cease to be of further effect (except as to (i) remaining rights of registration of transfer, substitution and exchange and conversion of Notes, (ii) rights hereunder of Holders to receive from the Trustee payments of the amounts then due, including interest and Special Interest, if any, with respect to the Notes and the other rights, duties and obligations of Holders, as beneficiaries hereof solely with respect to the amounts, if any, so deposited with the Trustee and (iii) the rights, obligations and immunities of the Trustee, authenticating agent, Paying Agent, Conversion Agent and Registrar under this Indenture with respect to the Notes), and the Trustee, on demand of the Company accompanied by an Officers' Certificate and an Opinion of Counsel as required by Section 12.03 and at the cost and expense of the Company, shall execute proper instruments acknowledging satisfaction of and discharging this Indenture with respect to the Notes; *provided, however*, the Company hereby agrees to reimburse the Trustee, authenticating agent, Paying Agent, Conversion Agent and Registrar for any costs or expenses thereafter reasonably and properly incurred by the Trustee, authenticating agent, Paying Agent, Conversion Agent and Registrar and to compensate the Trustee, authenticating agent, Paying Agent, Conversion Agent and Registrar for any services thereafter reasonably and properly rendered by the Trustee, authenticating agent, Paying Agent, Conversion Agent and Registrar in connection with this Indenture with respect to the Notes.

Section 12.02. Reinstatement.

If the Trustee or the Paying Agent is unable to apply any money to the Holders entitled thereto by reason of any order or judgment of any court of governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture with respect to the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 12.01 until such time as the Trustee or the Paying Agent is permitted to apply all such money in accordance with this Indenture and the Notes to the Holders entitled thereto; *provided, however*, that if the Company makes any payment of principal amount of or interest on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

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Section 12.03. Officers' Certificate; Opinion of Counsel.

Upon any application or demand by the Company to the Trustee to take any action under Section 12.01, the Company shall furnish to the Trustee an Officers' Certificate and Opinion of Counsel stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with.

ARTICLE 13  
CONVERSION OF NOTES

Section 13.01. Conversion Privilege and Conversion Rate.

(a) Subject to the conditions described in clause (i), (ii), and (iii) below, and upon compliance with the provisions of this Article 13, a Holder shall have the right, at such Holder's option, to convert all or any portion (if the portion to be converted is \$1,000 principal amount or an integral multiple thereof) of any Notes at any time prior to the close of business on the Scheduled Trading Day immediately preceding June 15, 2012, at a rate (the "Conversion Rate") of 29.4172 shares of Common Stock (subject to adjustment by the Company as provided in Section 13.04) per \$1,000 principal amount of the Notes under the circumstances and during the periods set forth below. On and after June 15, 2012 regardless of the conditions described in clause (i), (ii) and (ii) below, and upon compliance with the provisions of this Article 13, a Holder shall have the right, at such Holder's option, to convert all or any

portion (if the portion to be converted is \$1,000 principal amount or an integral multiple thereof) of any Notes at the applicable Conversion Rate at any time prior to the close of business on the third Scheduled Trading Day immediately preceding the Maturity Date.

(i) The Notes shall be convertible prior to the close of business on the Scheduled Trading Day immediately preceding June 15, 2012, during the five Business Day period immediately after any five consecutive Trading Day period (the “Measurement Period”) in which the Trading Price per \$1,000 principal amount of the Notes for each Trading Day of such Measurement Period was less than 98% of the product of the Last Reported Sale Price of the Common Stock on such Trading Day and the Conversion Rate in effect on such Trading Day (the “Trading Price Condition”) determined as set forth below. If a Holder provides the Company with reasonable evidence that the Trading Price per \$1,000 principal amount of the Notes would be less than 98% of the product of (a) the then-applicable Conversion Rate of the Notes and (b) the Last Reported Sale Price at such time, then the Company shall instruct the Trustee to determine the Trading Price of the Notes beginning on the next Trading Day and on each successive Trading Day until the date on which the Trading Price per Note is greater than or equal to 98% of the product of (a) the then-applicable Conversion Rate of the Notes and (b) the Last Reported Sale Price (as provided to the Trustee by the Company on each such date). If the Trading Price Condition has been met in accordance with the foregoing, the Company shall so notify the Holders of the Notes. If, at any time after the Trading Price Condition has been met in accordance with the foregoing, the Trading Price per \$1,000 principal amount of the Notes is greater than 98% of the product of (a) the then-applicable Conversion Rate of the Notes and (b) the Last Reported Sale Price on such date, the Company shall so notify the Holders of the Notes, and the Trustee shall have no further obligation to determine the Trading Price of the Notes unless requested by the Company to do so again in writing pursuant to this Section 13.01(a)(i). Furthermore, if

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the Company does not, when obligated to do so pursuant to this clause (i), instruct the Trustee to determine the Trading Price of the Notes, or if the Company so instructs the Trustee, but the Trustee does not make such determination, then the Trading Price per \$1,000 principal amount of the Notes shall be deemed to be less than 98% of the product of (a) the then-applicable Conversion Rate of the Notes and (b) the Last Reported Sale Price on such date.

(ii) The Notes shall be convertible prior to the close of business on the Scheduled Trading Day immediately preceding June 15, 2012, during any calendar quarter after the calendar quarter ending June 30, 2007 (and only during such calendar quarter), if the Last Reported Sale Price of the Common Stock for twenty (20) or more Trading Days in a period of thirty (30) consecutive Trading Days ending on the last Trading Day of the immediately preceding calendar quarter exceeds 120% of the applicable Conversion Price in effect on the last Trading Day of the immediately preceding calendar quarter.

(iii) The Notes shall be convertible prior to June 15, 2012, as provided in subsections (b), (c) and (d) of this Section 13.01.

(b) In the event that the Company elects to:

(i) distribute to all or substantially all holders of Common Stock any rights or warrants entitling them, for a period of not more than 60 calendar days after the record date for such distribution, to subscribe for or purchase Common Stock at a price per share less than the Last Reported Sale Price of the Common Stock for the Trading Day immediately preceding the declaration date of such distribution; or

(ii) distribute to all or substantially all holders of Common Stock, assets (including cash) or debt securities of the Company or rights to purchase the Company’s securities, which distribution has a per share value (as determined by the Board of Directors) exceeding 10% of the Last Reported Sale Price of the Common Stock on the Trading Day immediately preceding the date of declaration of such distribution,

then, in either case, Holders may surrender the Notes for conversion at any time on and after the date that the Company provides the notice to such Holders referred to in the next sentence until the earlier of 5:00 p.m., New York City time, on the Business Day immediately preceding the Ex-Date for such distribution or the date the Company announces that such distribution will not take place. The Company shall notify Holders at least 35 Scheduled Trading Days prior to the Ex-Date for such distribution. A Holder may not exercise this right if such Holder is permitted to participate (as a result of holding the Notes, and at the same time as holders of the Common Stock participate) in any distribution referred to in clause (i) or clause (ii) above as if such Holder held a number of shares of Common Stock equal to the then-applicable Conversion Rate, multiplied by the principal amount (expressed in thousands) of Notes held by such Holder, without having to convert its Notes.

(c) If the Company is a party to a combination, merger, recapitalization, reclassification, binding-share exchange or other similar transaction or sale or conveyance of all or substantially all of its properties, in each case pursuant to which the Common Stock would be converted into cash, securities and/or other property and that does not also constitute a

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Designated Event, then the Holders shall have the right to convert Notes at any time beginning 35 Scheduled Trading Days prior to the date announced by the Company as the anticipated effective date of the transaction and ending on the 35th Scheduled Trading Day after the date that is the effective date of such transaction. The Company shall notify Holders no later than 35 Scheduled Trading Days prior to the anticipated effective date of such transaction. The Board of Directors shall determine the anticipated effective date of the transaction, and such determination shall be conclusive and binding on the Holders.

(d) If the Company is a party to any transaction or event described in clause (a) or (e) of the definition of Fundamental Change, a Holder may surrender Notes for conversion at any time, after the Company gives the notice referred to in the last sentence of this Section 13.01(d), from and after the 35th Scheduled Trading Day prior to the anticipated effective date of such transaction or event until (i) the related Designated Event Repurchase Date or (ii) if there is no such Designated Event Repurchase Date, 35 Trading Days following the effective date of such transaction or event. If an event described in clause (b), (c) or (d) of the definition of Fundamental Change or a Termination of Trading occurs, a Holder may surrender Notes for conversion at any time, after the Company gives the notice referred to in the last sentence in this Section 13.01(d) and issue a press release on the effective date of such event, from and after the effective date of such event or the date on which the Termination of Trading occurs, as the case may be, until (i) the Designated

Event Repurchase Date corresponding to such event or (ii) if there is no such Designated Event Repurchase Date, 35 Trading Days following the effective date of such event. The Company shall notify, in the manner provided for in Section 1.07, each of the Holders of the Designated Event and issue a press release, (i) no later than 35 Scheduled Trading Days prior to the anticipated Effective Date with respect to a transaction or event described in the first sentence above or (ii) with respect to an event described in the second sentence of this Section 13.01(d), on the Effective Date or the date on which the Termination of Trading occurs, as the case may be.

(e) If a Holder elects to convert Notes at any time on or after the 35th Scheduled Trading Day prior to the date announced by the Company as the anticipated effective date of a Fundamental Change described in clauses (a) or (e) of the definition thereof or on or after the effective date of a Fundamental Change described in clause (c) of the definition thereof, in each case until the related Designated Event Repurchase Date for such Fundamental Change or, if there is no such Designated Event Repurchase Date, until the 35th Trading Day following such effective date, as applicable, the Conversion Rate applicable to each \$1,000 principal amount of Notes so converted shall be increased by an additional number of shares of Common Stock (the “Additional Shares”) as described below; *provided, however*, that no increase shall be made in the case of an event described in clause (a), (c) or (e) of the definition of Fundamental Change if 100% of the consideration paid for the Company’s Common Stock (excluding cash payments for fractional shares and cash payments made pursuant to dissenters’ appraisal rights) in such Fundamental Change consists of shares of Capital Stock or American Depositary Receipts in respect of shares of Capital Stock traded (or that will be so traded or quoted immediately following the transaction) on any of the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors) and as a result of such transaction or transactions the Notes become convertible into such shares of such Capital Stock or such American Depositary Receipts, subject to the payment of the Principal Portion thereof in cash. Settlement of Notes tendered for conversion to which Additional Shares shall be added to the Conversion Rate as provided in this subsection shall be settled pursuant to Section 13.02(d). The Company shall notify, in the manner

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provided for in Section 1.07, each of the Holders of the occurrence of an event described in this paragraph and issue a press release (i) no later than 35 Scheduled Trading Days prior to the anticipated Effective Date with respect to a transaction with respect to any transaction described in clause (a) or (e) of the definition of the term “Fundamental Change” and (ii) promptly upon receiving knowledge of the effective date of such transaction with respect to any transaction described in clause (c) of the definition of the term “Fundamental Change.”

(i) The number of Additional Shares shall be determined by the Company by reference to the table attached as Schedule II hereto, based on the date on which the Fundamental Change occurs or becomes effective (the “Effective Date”), and the Stock Price; *provided* that if the actual Stock Price is between two Stock Price amounts in the table or the Effective Date is between two Effective Dates in the table, the number of Additional Shares shall be determined by a straight-line interpolation between the number of Additional Shares set forth for the next higher and next lower Stock Price amounts and the two nearest Effective Dates, as applicable, based on a 365-day year; *provided, further*, that if (1) the Stock Price is greater than \$60.00 per share of Common Stock (subject to adjustment in accordance with clause (ii) below), no Additional Shares shall be added to the Conversion Rate, and (2) the Stock Price is less than \$27.75 per share (subject to adjustment in accordance with clause (ii) below), no Additional Shares shall be added to the Conversion Rate. Notwithstanding the foregoing, in no event shall the Conversion Rate exceed 36.0360 per \$1,000 principal amount of Notes (subject to adjustment in the same manner as set forth in Section 13.04).

(ii) The Stock Prices set forth in the first row of the tables in Schedule II hereto shall be adjusted by the Company as of any date on which the Conversion Rate of the Notes is adjusted (except pursuant to this Section 13.01(e)). The adjusted Stock Prices shall equal the Stock Prices applicable immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the Conversion Rate in effect immediately prior to the adjustment giving rise to the Stock Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of Additional Shares within the table shall be adjusted in the same manner as the Conversion Rate as set forth in Section 13.04 (other than by operation of an adjustment to the Conversion Rate by adding Additional Shares).

#### Section 13.02. Exercise of Conversion Privilege.

(a) Subject to subsection (b) of this Section 13.02, the Company shall satisfy the Conversion Obligation with respect to each \$1,000 principal amount of Notes tendered for conversion in cash and shares of fully paid Common Stock, if applicable, by delivering, on or before the third VWAP Trading Day immediately following the last VWAP Trading Day of the related Observation Period, cash and shares of Common Stock, if any, equal to the sum of the Daily Settlement Amounts for each of the 30 VWAP Trading Days during the related Observation Period; *provided* that the Company shall deliver cash in lieu of fractional shares of Common Stock as provided in Section 13.03. The Daily Settlement Amounts shall be determined by the Company promptly following the last VWAP Trading Day of the Observation Period.

(b) Notwithstanding subsection (a) of this Section 13.02, the Company shall satisfy the Conversion Obligation with respect to each \$1,000 principal amount of Notes tendered

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for conversion to which Additional Shares shall be added to the Conversion Rate as set forth in Section 13.01(e) pursuant to this clause (b).

(i) If the last VWAP Trading Day of the applicable Observation Period related to Notes surrendered for conversion is prior to the third Scheduled Trading Day preceding the Effective Date of the Fundamental Change, the Company shall satisfy the related Conversion Obligation with respect to each \$1,000 principal amount of Notes tendered for conversion as described in this subsection (b) by delivering the cash and, if applicable, shares of Common Stock (based on the Conversion Rate, but without regard to the number of Additional Shares to be added to the Conversion Rate pursuant to Section 13.01(e)) on the third VWAP Trading Day immediately following the last VWAP Trading Day of the applicable Observation Period. As soon as practicable following the Effective Date of the Fundamental Change, the Company shall deliver the increase in such amount of Common Stock or Reference Property in lieu of shares of Common Stock, if any, as if the Conversion Rate had been increased by such number of Additional Shares during the related Observation Period (and based upon the related Daily VWAP prices during such Observation Period). If such increased amount of cash and shares, if any, results in an increase to the amount of cash to be paid to Holders, the Company shall

pay such increase in cash, and if such increased amount results in an increase to the number of shares of Common Stock, the Company shall deliver such increase by delivering Reference Property based on such increased number of shares.

(ii) If the last VWAP Trading Day of the applicable Observation Period related to Notes surrendered for conversion is on or following the third Scheduled Trading Day preceding the Effective Date of such Fundamental Change, the Company shall satisfy the Conversion Obligation with respect to each \$1,000 principal amount of Notes tendered for conversion as described in this subsection (b) (based on the Conversion Rate as increased by the Additional Shares pursuant to Section 13.01(e)) on the later to occur of (1) the Effective Date of the Fundamental Change and (2) the third VWAP Trading Day immediately following the last VWAP Trading Day of the applicable Observation Period.

(c) Before any Holder of a Note shall be entitled to convert the same as set forth above, such holder shall (1) in the case of a Global Note, comply with the procedures of the Depositary in effect at that time and, if required, pay funds equal to interest payable on the next Interest Payment Date to which such Holder is not entitled as set forth in subsection (i) of this Section 13.02 and, if required, pay all taxes or duties, if any, and (2) in the case of a Note issued in certificated form, (A) complete and manually sign and deliver an irrevocable written notice to the Conversion Agent in the form set forth in Exhibit A hereto (or a facsimile thereof) (a “Notice of Conversion”) at the office of the Conversion Agent and shall state in writing therein the principal amount of Notes to be converted and the name or names (with addresses) in which such Holder wishes the certificate or certificates for any shares of Common Stock, if any, to be delivered upon settlement of the Conversion Obligation to be registered, (B) surrender such Notes, duly endorsed to the Company or in blank (and accompanied by appropriate endorsement and transfer documents), at the office of the Conversion Agent, (C) if required, pay funds equal to interest payable on the next Interest Payment Date to which such Holder is not entitled as set forth in subsection (i) of this Section 13.02, and (D) if required, pay all taxes or duties, if any. As used herein, “Conversion Date” shall mean the date that the Holder has complied with the requirements set forth in this subsection (c).

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No Notice of Conversion with respect to any Notes may be tendered by a Holder thereof if such Holder has also tendered a Designated Event Repurchase Notice and not validly withdrawn such Designated Event Repurchase Notice in accordance with the applicable provisions of Section 14.01.

If more than one Note shall be surrendered for conversion at one time by the same Holder, the Conversion Obligation with respect to such Notes, if any, that shall be payable upon conversion shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof to the extent permitted thereby) so surrendered.

(d) Delivery of the amounts owing in satisfaction of the Conversion Obligation shall be made by the Company in no event later than the date specified in subsection (a) of this Section 13.02, except to the extent specified in subsection (b) of this Section 13.02. The Company shall make such delivery by paying the cash amount owed to the Holder of the Note surrendered for conversion, or such Holder’s nominee or nominees, and, if applicable, by issuing, or causing to be issued, and delivering to such Holder, or such Holder’s nominee or nominees, certificates or a book-entry transfer through the Depositary for the number of full shares of Common Stock, if any, to which such holder shall be entitled as part of such Conversion Obligation (together with any cash in lieu of fractional shares).

(e) In case any Note shall be surrendered for partial conversion, the Company shall execute and the Trustee shall, as provided in a Company Order, authenticate and deliver to or upon the written order of the Holder of the Note so surrendered, without charge to such Holder, a new Note or Notes in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Notes.

(f) If a Holder submits a Note for conversion, the Company shall pay all documentary, stamp or similar issue or transfer tax due, if any, which may be imposed by the United States or any political subdivision thereof or taxing authority thereof or therein with respect to the issuance of shares of Common Stock, if any, upon the conversion. However, the Holder shall pay any such tax which is due because the Holder requests any shares of Common Stock to be issued in a name other than the Holder’s name. The Company may refuse to deliver the certificates representing the shares of Common Stock being issued in a name other than the Holder’s name until the Company receives a sum sufficient to pay any tax which will be due because the shares are to be issued in a name other than the Holder’s name. Nothing herein shall preclude any tax withholding required by law or regulations.

(g) Except as provided in Section 13.04, no adjustment shall be made for dividends on any shares issued upon the conversion of any Note as provided in this Article 13.

(h) Upon the conversion of an interest in a Global Note, the Trustee, or the Custodian at the direction of the Trustee, shall make a notation on such Global Note as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any conversion of Notes effected through any Conversion Agent other than the Trustee.

(i) Upon conversion, a Holder shall not receive any separate cash payment for accrued and unpaid interest except as set forth below. The Company’s settlement of the Conversion Obligation as described above shall be deemed to satisfy its obligation to pay the

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principal amount of the Note and accrued and unpaid interest to, but not including, the Conversion Date. As a result, accrued and unpaid interest (including Special Interest, if any) to, but not including, the Conversion Date shall be deemed to be paid in full rather than cancelled, extinguished or forfeited. Notwithstanding the preceding sentence, if Notes are converted after 5:00 p.m., New York City time, on a Regular Record Date, Holders of such Notes as of 5:00 p.m., New York City time, on such Regular Record Date shall receive the interest payable on such Notes on the corresponding Interest Payment Date notwithstanding the conversion. Notes surrendered for conversion during the period from 5:00 p.m., New York City time, on any Regular Record Date to 9:00 a.m., New York City time, on the immediately following Interest Payment Date must be accompanied by payment of an amount in cash equal to the interest payable, on such Interest Payment Date, on the Notes so converted; *provided, however*, that no such payment need be made (i) if the Company has specified a Designated Event Repurchase Date that is after a Regular Record Date and on or prior to the corresponding Interest Payment Date; (ii) to the extent of any overdue interest existing at the time of conversion with respect to such Note; or (iii) with respect to any Conversion Date that occurs during the period from

the close of business on the Regular Record Date immediately preceding the Maturity Date to the Maturity Date. Except as described above, no payment or adjustment shall be made for accrued interest on converted Notes.

(j) As provided in Section 11.01, the Subsidiary Guarantees represent full and unconditional guarantees by the Guarantors on an unsecured and senior subordinated basis of the payment of principal of and interest and Special Interest, if any, on the Notes. Upon conversion of the Notes pursuant to this Article 13, the Subsidiary Guarantees will be deemed to be released and extinguished.

Section 13.03. Fractions of Shares.

No fractional shares of Common Stock shall be issued upon conversion of any Note or Notes. If more than one Note shall be surrendered for conversion at one time by the same Holder, the number of full shares which shall be issuable upon conversion thereof shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof) so surrendered. Instead of any fractional share of Common Stock that would otherwise be issuable upon conversion of any Note or Notes (or specified portions thereof), the Company shall calculate and pay a cash adjustment in respect of such fraction (calculated to the nearest 1/100th of a share) in an amount equal to the same fraction of the Daily VWAP of the Common Stock on the last VWAP Trading Day of the relevant Observation Period.

Section 13.04. Adjustment of Conversion Rate.

The Conversion Rate shall be adjusted from time to time by the Company as follows; *provided* that the Company shall not make any adjustments to the Conversion Rate if Holders of the Notes participate (as a result of holding the Notes, and at the same time as holders of the Common Stock participate) in any the transactions described below as if such Holders held a number of shares of Common Stock equal to the then-applicable Conversion Rate, multiplied by the principal amount (expressed in thousands) of Notes held by such Holders, without having to convert their Notes:

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(a) In case the Company shall issue shares of Common Stock as a dividend or distribution on shares of Common Stock, or shall effect a share split or share combination, the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{OS'}{OS_0}$$

where,

$CR_0$  = the Conversion Rate in effect immediately prior to the Ex-Date for such dividend or distribution or immediately prior to the effective date of such share split or combination, as the case may be;

$CR'$  = the Conversion Rate in effect immediately after the Ex-Date for such dividend or distribution or immediately after the effective date of such share split or combination, as the case may be;

$OS_0$  = the number of shares of Common Stock outstanding immediately prior to the Ex-Date for such dividend or distribution or immediately prior to the effective date of such share split or combination, as the case may be; and

$OS'$  = the number of shares of Common Stock outstanding as of the Ex-Date and after giving effect to such dividend or distribution or will be outstanding after the effective date of such share split or combination, as the case may be.

Such adjustment shall become effective immediately prior to the opening of business on the Ex-Date fixed for such dividend or distribution, or the effective date for such share split or share combination. If any dividend or distribution of the type described in this Section 13.04(a) is declared but not so paid or made, or the outstanding shares of Common Stock are not split or combined, as the case may be, the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution, or split or combine the outstanding shares of Common Stock, as the case may be, to the Conversion Rate that would then be in effect if such dividend, distribution, share split or share combination had not been declared.

(b) In case the Company shall distribute to all or substantially all holders of its outstanding shares of Common Stock rights or warrants entitling them (for a period expiring not more than 60 calendar days after the record date for such distribution) to subscribe for or purchase shares of Common Stock at a price per share less than the Last Reported Sale Price of the Common Stock on the Trading Day immediately preceding the declaration date of such distribution, the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

$CR_0$  = the Conversion Rate in effect immediately prior to the Ex-Date for such distribution;

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$CR'$  = the Conversion Rate in effect immediately after the Ex-Date for such distribution;

$OS_0$  = the number of shares of Common Stock outstanding immediately prior to the Ex-Date for such distribution;

X = the total number of shares of Common Stock issuable pursuant to such rights or warrants; and

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights or warrants divided by the average of the Last Reported Sale Prices of Common Stock over the 10 consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Date for such distribution.

Such adjustment shall be successively made whenever any such rights or warrants are distributed and shall become effective immediately prior to the opening of business on the Ex-Date for such distribution. The Company shall not issue any such rights or warrants in respect of shares of the Common Stock held in treasury by the Company. To the extent that shares of the Common Stock are not delivered after the expiration of such rights or warrants, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect had the adjustments made upon the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights or warrants are not so issued, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such Ex-Date for such distribution had not been fixed.

In determining whether any rights or warrants entitle the holders to subscribe for or purchase shares of Common Stock at less than such Last Reported Sale Price, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received by the Company for such rights or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

(c) In case the Company shall, by dividend or otherwise, distribute to all or substantially all holders of its Common Stock shares of any class of Capital Stock of the Company, evidences of its Indebtedness or other assets or property of the Company (including securities, but excluding dividends and distributions covered by subsection (a), (b) or (d) of this Section 13.04 and distributions described below in this subsection (c) with respect to Spin-Offs) (any of such shares of Capital Stock, Indebtedness, or other asset or property hereinafter in this subsection (c) called the “Distributed Property”), then, in each such case the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the Ex-Date for such distribution;

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CR' = the Conversion Rate in effect immediately after the Ex-Date for such distribution;

SP<sub>0</sub> = the average of the Last Reported Sale Prices of Common Stock over the ten (10) consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Date for such distribution; and

FMV = the fair market value as determined by the Board of Directors of the Distributed Property with respect to each outstanding share of Common Stock on the Ex-Date for such distribution.

Such adjustment shall become effective immediately prior to the opening of business on the Ex-Date for such distribution; *provided* that if “FMV” as set forth above is equal to or greater than “SP<sub>0</sub>” as set forth above, in lieu of the foregoing adjustment, adequate provision shall be made so that each Holder of Notes has the right to receive, for each \$1,000 principal amount of Notes, the amount of Distributed Property such Holder would have received had such holder owned a number of shares of Common Stock equal to the Conversion Rate on the Ex-Date for such distribution, without being required to convert the Notes. If such distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared. If the Board of Directors determines “FMV” for purposes of this Section 13.04(c) by reference to the actual or when issued trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing the Last Reported Sale Prices of the Common Stock over the ten consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Date for such distribution.

With respect to an adjustment pursuant to this subsection (c) where there has been a payment of a dividend or other distribution on the Common Stock or shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit (a “Spin-Off”), the Conversion Rate in effect immediately before 5:00 p.m., New York City time, on the 10th Trading Day immediately following, and including, the effective date of the Spin-Off shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the 10th Trading Day immediately following the effective date of the Spin-Off;

CR' = the Conversion Rate in effect immediately after the 10th Trading Day immediately following the effective date of the Spin-Off;

FMV<sub>0</sub> = the average of the Last Reported Sale Prices of the capital stock or similar equity interest distributed to holders of Common Stock applicable to one share of Common Stock over the first 10 consecutive Trading Day period immediately following, and including, the effective date of the Spin-Off; and

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MP<sub>0</sub> = the average of the Last Reported Sale Prices of our common stock over the first 10 consecutive Trading Day period immediately following, and including, the effective date of the Spin-Off.

Such adjustment shall occur on the 10th Trading Day immediately following, and including, the effective date of the Spin-Off; *provided that* in respect of any conversion within the 10 Trading Days immediately following, and including, the effective date of any Spin-Off, references with respect to the Spin-Off to 10 Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed between the effective date of such Spin-Off and the Conversion Date in determining the applicable Conversion Rate; *provided, further*, that in respect of any conversion within the first four Trading Days following the effective date of such Spin-Off (if such Trading Days are also VWAP Trading Days), references to 10 Trading Days shall be deemed replaced with four Trading Days).

Rights or warrants distributed by the Company to all holders of Common Stock, entitling the holders thereof to subscribe for or purchase shares of the Company's Capital Stock, including Common Stock (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events ("Trigger Event"): (i) are deemed to be transferred with such shares of Common Stock; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of Common Stock, shall be deemed not to have been distributed for purposes of this Section 13.04 (and no adjustment to the Conversion Rate under this Section 13.04 shall be required) until the occurrence of the earliest Trigger Event, whereupon such rights and warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this subsection (c). If any such rights or warrants are subject to events, upon the occurrence of which such rights or warrants become exercisable to purchase different securities, evidences of Indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and record date with respect to new rights or warrants with such rights (and a termination or expiration of the existing rights or warrants without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event (of the type described in the preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 13.04 was made, (1) in the case of any such rights or warrants that shall all have been redeemed or repurchased without exercise by any holders thereof, the Conversion Rate shall be readjusted upon such final redemption or repurchase to give effect to such distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or repurchase price received by a holder or holders of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Stock as of the date of such redemption or repurchase, and (2) in the case of such rights or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights and warrants had not been issued.

For purposes of this subsection (c) and subsections (a) and (b) of this Section 13.04, any dividend or distribution to which this subsection (c) is applicable that also includes shares of Common Stock to which subsection (a) of this Section 13.04 applies or rights or warrants to subscribe for or purchase shares of Common Stock to which subsection (a) or (b) of this Section 13.04 applies (or both), shall be deemed instead to be (1) a dividend or distribution of the evidences of Indebtedness, assets or shares of capital stock other than such shares of Common

Stock or rights or warrants, to which this subsection (c) applies (and any Conversion Rate adjustment required by this subsection (c) with respect to such dividend or distribution shall then be made) immediately followed by (2) a dividend or distribution of such shares of Common Stock or such rights or warrants (and any further Conversion Rate adjustment required by subsections (a) and (b) of this Section 13.04 with respect to such dividend or distribution shall then be made), except (A) the Ex-Date of such dividend or distribution shall under this subsection (c) be substituted as "the Ex-Date" within the meaning of subsection (a) and subsection (b) and (B) any shares of Common Stock included in such dividend or distribution shall not be deemed "outstanding immediately prior to the Ex-Date for such dividend or distribution or immediately prior to the effective date of such share split or combination, as the case may be" within the meaning of subsection (a) or "outstanding immediately prior to the Ex-Date for such distribution" within the meaning of subsection (b).

(d) In case the Company shall pay dividends or make distributions consisting exclusively of cash to all or substantially all holders of its Common Stock (excluding the first dividend or distribution with the Ex-Date for such dividend or distribution in any calendar quarter if such dividend or distribution does not exceed \$0.20 per share (the "Dividend Threshold Amount"); *provided that* the Dividend Threshold Amount is subject to adjustment in a manner inversely proportional to adjustments to the Conversion Rate, except that no adjustment will be made to the Dividend Threshold Amount on account of any adjustment made to the Conversion Rate pursuant to this paragraph; *provided, further*, that if such dividend or distribution is not the first dividend or distribution with an Ex-Date during any calendar quarter, the Dividend Threshold Amount will be deemed to be zero), the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{SP_0 - QD}{SP_0 - C}$$

where,

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the Ex-Date for such distribution;

CR' = the Conversion Rate in effect immediately after the Ex-Date for such distribution;

SP<sub>0</sub> = the average of the Last Reported Sale Prices of Common Stock for the 5 consecutive Trading Days immediately preceding the Ex-Date for such distribution;

QD = the Dividend Threshold Amount; and

C = the amount in cash per share we distribute to holders of Common Stock in such distribution.

Such adjustment shall become effective immediately prior to the opening of business on the Ex-Date for such dividend or distribution; *provided that* if the portion of the cash so distributed applicable to one share of the Common Stock is equal to or greater than SP<sub>0</sub> as set forth above, in lieu of

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Holder of Notes shall receive on the date on which such cash dividend is distributed to holders of Common Stock, for each \$1,000 principal amount of Notes, the amount of cash such holder would have received had such holder owned a number of shares equal to the Conversion Rate on the Ex-Date for such distribution, without being required to convert the Notes. If such dividend or distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

For the avoidance of doubt, for purposes of this subsection (d), in the event of any reclassification of the Common Stock, as a result of which the Notes become convertible into more than one class of Common Stock, if an adjustment to the Conversion Rate is required pursuant to this subsection (d), references in this Section 13.04 to one share of Common Stock or Last Reported Sale Price of one share of Common Stock shall be deemed to refer to a unit or to the price of a unit consisting of the number of shares of each class of Common Stock into which the Notes are then convertible equal to the numbers of shares of such class issued in respect of one share of Common Stock in such reclassification. The above provisions of this paragraph shall similarly apply to successive reclassifications.

(e) In case the Company or any of its Subsidiaries make a payment in respect of a tender offer or exchange offer for all or any portion of the Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of Common Stock exceeds the Last Reported Sale Price of the Common Stock on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{AC + (SP' \times OS')}{OS_0 \times SP'}$$

where,

CR<sub>0</sub> = the Conversion Rate in effect on the date such tender or exchange offer expires;

CR' = the Conversion Rate in effect after the date such tender or exchange offer expires;

AC = the aggregate value of all cash and any other consideration as determined by the Board of Directors paid or payable for shares purchased in such tender or exchange offer;

OS<sub>0</sub> = the number of shares of Common Stock outstanding immediately prior to the date such tender or exchange offer expires;

OS' = the number of shares of Common Stock outstanding immediately after the date such tender or exchange offer expires (after giving effect to such tender offer or exchange offer); and

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SP' = the average of the Last Reported Sale Prices of Common Stock for the 10 consecutive Trading Days immediately succeeding the date such tender or exchange offer expires.

Such adjustment shall become effective immediately after close of business on the 10th Trading Day next succeeding the date such tender or exchange offer expires; *provided* that in respect of any conversion within the 10 Trading Days immediately succeeding the date such tender or exchange offer expires, references with respect to the tender or exchange offer to the 10 Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed between the expiration date of such tender or exchange offer and the conversion date in determining the applicable Conversion Rate; *provided, further*, that in respect of any conversion within the first four Trading Days following the expiration date of such tender or exchange offer (if such Trading Days are also VWAP Trading Days), references to 10 Trading Days shall be deemed replaced with four Trading Days. If the Company or its Subsidiary is obligated to purchase shares of Common Stock pursuant to any such tender or exchange offer, but the Company or its Subsidiary is permanently prevented by applicable law from effecting all or any such purchases or all or any portion of such purchases are rescinded, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such tender or exchange offer had not been made or had only been made in respect of the purchases that had been effected.

No adjustment to the Conversion Rate shall be made if the application of any of the foregoing formulas (other than in connection with a share combination) would result in a decrease in the Conversion Rate.

For purposes of this Section 13.04 the term “record date” shall mean, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of shareholders entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

(f) In addition to those required by subsections (a), (b), (c), (d) and (e) of this Section 13.04, and to the extent permitted by applicable law, the Company from time to time may increase the Conversion Rate by any amount for a period of at least 20 calendar days if the Board of Directors determines that such increase would be in the Company's best interest. Whenever the Conversion Rate is increased pursuant to the preceding sentence, the Company shall mail to the Holder of each Note a notice prior to the date the increased Conversion Rate takes effect, and such notice shall state the increased Conversion Rate and the period during which it will be in effect. In addition, the Company may also (but is not required to) increase the Conversion Rate to avoid or diminish any income tax to holders of Common Stock or rights to purchase Common Stock in connection with any dividend or distribution of shares (or rights to acquire shares) or similar event.



(i) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on securities of the Company and the investment of additional optional amounts in shares of Common Stock under any plan;

(ii) upon the issuance of any shares of Common Stock or options or rights to purchase shares of Common Stock pursuant to any present or future employee, director or consultant benefit plan or program or employee stock purchase plan of or assumed by the Company or any of its Subsidiaries;

(iii) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right, or exercisable, exchangeable or convertible security not described in clause (ii) above and outstanding as of the date of this Indenture;

(iv) for a change in the par value of the Common Stock; or

(v) for accrued and unpaid interest (including any Special Interest).

(h) All calculations and other determinations under this Article 13 shall be made by the Company and shall be made to the nearest cent or to the nearest one-tenth thousandth (1/10,000) of a share, as the case may be. No adjustment shall be made for the Company's issuance of Common Stock or convertible or exchangeable securities or rights to purchase Common Stock or convertible or exchangeable securities, other than as provided in this Section 13.04. No adjustment shall be made to the Conversion Rate unless such adjustment would require a change of at least 1% in the Conversion Rate then in effect at such time. The Company shall carry forward any adjustments that are less than 1% of the Conversion Rate and make such carried forward adjustments, regardless of whether the aggregate adjustment is less than 1% (1) annually, on the anniversary of the date of this Indenture, (2) upon a Designated Event or (3) on the Maturity Date (and on each VWAP Trading Day of the 30 VWAP Trading Day Observation Period beginning on the 32nd Scheduled Trading Day prior to the Maturity Date).

(i) In any case in which this Section 13.04 provides that an adjustment shall become effective immediately after (1) the Ex-Date for an event or (2) the last date on which tenders or exchanges may be made pursuant to any tender or exchange offer pursuant to subsection (e) of this Section 13.04 (each an "Adjustment Determination Date"), the Company may elect to defer until the occurrence of the applicable Adjustment Event (as hereinafter defined) (x) issuing to the Holder of any Note converted after such Adjustment Determination Date and before the occurrence of such Adjustment Event, the additional cash and, if applicable, shares of Common Stock or other securities issuable upon such conversion by reason of the adjustment required by such Adjustment Event over and above the amounts deliverable upon such conversion before giving effect to such adjustment and (y) paying to such Holder any amount in cash in lieu of any fractional share pursuant to Section 13.03. For purposes of this subsection (i), the term "Adjustment Event" shall mean:

(i) in any case referred to in clause (1) hereof, the date any dividend or distribution of Common Stock, shares of capital stock, evidences of Indebtedness, other assets or property or cash is paid or made, the effective date of any share split or combination or the date of expiration of any rights or warrants, and

(ii) in any case referred to in clause (2) hereof, the date a sale or exchange of Common Stock pursuant to such tender or exchange offer is consummated and becomes irrevocable.

(j) For purposes of this Section 13.04, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(k) For the avoidance of doubt, if a holder converts Notes prior to the effective date of a Designated Event, and the Designated Event does not occur, the Holder shall not be entitled to Additional Shares in connection with such conversion.

(l) With respect to a conversion of Notes pursuant to this Article 13, at and after the close of business on the last VWAP Trading Day (the "Relevant Date") of the related Observation Period, the Person in whose name any certificate representing any shares of Common Stock issuable upon such conversion is registered shall be treated as a stockholder of record of the Company on such Relevant Date; *provided, however*, that if any such shares of Common Stock constitute Additional Shares, then the Relevant Date with respect to such shares that constitute Additional Shares shall instead be deemed to be the later of (i) the last VWAP Trading Day of the related Observation Period and (ii) the Effective Date of the Fundamental Change resulting in the Additional Shares. On and after the Conversion Date with respect to a conversion of Notes pursuant hereto, all rights of the Holders of such Notes shall terminate, other than the right to receive the consideration deliverable upon conversion of such Notes as provided herein. A Holder of a Note is not entitled, as such, to any rights of a holder of Common Stock until, if such Holder converts such Note and is entitled pursuant hereto to receive shares of Common Stock in respect of such conversion, the close of business on the Relevant Date or respective Relevant Dates, as the case may be, with respect to such conversion.

(m) Whenever any provision of this Article 13 requires a calculation of Last Reported Sale Prices or Daily VWAP over a span of multiple days, the Company shall make appropriate adjustments to the Daily Settlement Amounts (determined in good faith by the Board of Directors) to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Ex-Date of the event occurs, at any time during the period from which such calculation is to be calculated; *provided* that such adjustments shall only be made to the Daily Settlement Amounts relating to days prior to the date that the adjustment to the Conversion Rate becomes effective.

Whenever the Conversion Rate is adjusted as herein provided:

(a) the Company shall compute the adjusted Conversion Rate in accordance with Section 13.04 and shall prepare a certificate signed by the Chief Financial Officer of the Company setting forth the adjusted Conversion Rate and showing in reasonable detail the facts upon which such adjustment is based, and such certificate shall promptly be filed with the Trustee and with each Conversion Agent (if other than the Trustee); and

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(b) upon each such adjustment, a notice stating that the Conversion Rate has been adjusted and setting forth the adjusted Conversion Rate shall be required, such notice shall be provided by the Company to all Holders in accordance with Section 1.07.

Neither the Trustee nor any Conversion Agent shall be under any duty or responsibility with respect to any such certificate or the information and calculations contained therein, except to exhibit the same to any Holder of Notes desiring inspection thereof at its office during normal business hours.

Section 13.06. Company to Reserve Common Stock.

The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of Notes, the full number of shares of Common Stock then issuable upon the conversion of all outstanding Notes.

Section 13.07. Taxes on Conversions.

Except as provided in the next sentence, the Company shall pay all documentary, stamp or similar issue or transfer tax due that may be payable in respect of the issue or delivery of shares of Common Stock on conversion of Notes pursuant hereto. The Company shall not, however, be required, and the Holder shall instead be required, to pay any tax or duty that may be payable in respect of (i) income of the Holder, or (ii) any transfer involved in the issue and delivery of shares of Common Stock in a name other than that of the Holder of the Note or Notes to be converted, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Company the amount of any such tax or duty, or has established to the satisfaction of the Company that such tax or duty has been paid.

Section 13.08. Certain Covenants.

Before taking any action which would cause an adjustment reducing the Conversion Rate below the then par value, if any, of the shares of Common Stock issuable upon conversion of the Notes, the Company shall take all corporate action, if any, which it reasonably determines may be necessary in order that the Company may validly and legally issue shares of such Common Stock at such adjusted Conversion Rate.

The Company covenants that all shares of Common Stock issued upon conversion of Notes shall be fully paid and non-assessable by the Company and free from all liens created by the Company.

The Company further covenants that if at any time the Common Stock shall be listed for trading on any other national securities exchange the Company shall, if permitted and required by the rules of such exchange, list and keep listed, so long as the Common Stock shall be so listed on such exchange, all Common Stock issuable upon conversion of the Notes.

Section 13.09. Cancellation of Converted Notes.

All Notes delivered for conversion shall be delivered to the Trustee or its agent and canceled by the Trustee as provided in Article 3.

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Section 13.10. Provision in Case of Effect of Reclassification, Consolidation, Merger or Sale.

If any of the following events occur, namely (i) any reclassification or change of the outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a split, subdivision or combination), (ii) any consolidation, merger, combination or binding share exchange of the Company with another Person, or (iii) any sale or conveyance of all or substantially all of the property and assets of the Company to any other Person, in any case as a result of which holders of Common Stock shall be entitled to receive cash, securities or other property or assets with respect to or in exchange for such Common Stock (any such event described in clauses (i) through (iii) a "Merger Event"), then:

(a) the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture (which shall comply with the Trust Indenture Act as in force at the date of execution of such supplemental indenture if such supplemental indenture is then required to so comply) permitted under Section 9.01(i) providing for the conversion and settlement of the Notes as set forth in this Indenture. Such supplemental indenture shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 13 and the Trustee may conclusively rely on the determination by the Company of the equivalency of such adjustments. If, in the case of any Merger Event, the Reference Property includes shares of stock or other securities and assets of a company other than the successor or purchasing company, as the case may be, in such reclassification, change of control, consolidation, merger, combination, binding share exchange, sale or conveyance, then such supplemental indenture shall also be executed by such other company and shall contain such additional provisions to protect the interests of the Holders of the Notes as the Board of Directors shall reasonably consider necessary by reason of the foregoing, including to the extent required by the Board of Directors and practicable the provisions providing for the repurchase rights set forth in Article 11.

In the event a supplemental indenture is executed pursuant to this Section 13.10, the Company shall promptly file with the Trustee an Officers' Certificate briefly stating the reasons therefore, the kind or amount of cash, securities or property or assets that will constitute the Reference Property after any such Merger Event, any adjustment to be made with respect thereto and that all conditions precedent have been complied with, and shall promptly mail notice thereof to all Holders.

If any securities to be provided for the purpose of conversion of Notes hereunder require registration with or approval of any governmental authority under any federal or state law before such securities may be validly issued upon conversion, each supplemental indenture executed pursuant to this Section 13.10 shall provide that the Company or the successor or the purchasing Person, as the case may be, or if the Reference Property includes shares of stock or other securities and assets of a company other than the successor or purchasing company, as the case may be, then such company, shall use all commercially reasonable efforts, to the extent then permitted by the rules and interpretations of the SEC (or any successor thereto), to secure such registration or approval in connection with the conversion of Notes.

(b) Notwithstanding the provisions of Section 13.02(a) and Section 13.02(b), and subject to the provisions of Section 13.01, at the effective time of such Merger Event, the right to convert each \$1,000 principal amount of Notes shall be changed to a right to convert such

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Notes by reference to the kind and amount of cash, securities or other property or assets that a holder of a number of shares of Common Stock equal to the Conversion Rate immediately prior to such transaction would have owned or been entitled to receive (the "Reference Property") such that from and after the effective time of such transaction, a Holder shall be entitled thereafter to convert its Notes into cash and, in lieu of Common Stock, if any, the same type (and in the same proportion) of Reference Property, based on the Daily Settlement Amounts of Reference Property in an amount equal to the applicable Conversion Rate, as described under Section 13.02(a). For purposes of determining the constitution of Reference Property, the type and amount of consideration that a holder of Common Stock would have been entitled to in the case of reclassifications, consolidations, mergers, binding share exchanges, sales or conveyance of assets or other transactions that cause the Common Stock to be converted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election) shall be deemed to be the (i) weighted average of the types and amounts of consideration received by the holders of Common Stock that affirmatively make such an election or (ii) if no holders of Common Stock affirmatively make such election, the weighted average of the types and amounts of consideration actually received by such holders. The Company shall not become a party to any such transaction unless its terms are consistent with the preceding. None of the foregoing provisions shall affect the right of a holder of Notes to convert its Notes in accordance with the provisions of this Article 13 prior to the effective date.

(c) The Company shall cause notice of the execution of such supplemental indenture to be mailed to each Holder, at his address appearing on the register provided for in this Indenture, within 20 calendar days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture.

(d) The above provisions of this Section 13.10 shall similarly apply to successive Merger Events.

Section 13.11. Responsibility of Trustee for Conversion Provisions.

The Trustee and any Conversion Agent shall not at any time be under any duty or responsibility to any Holder of Notes to determine whether any facts exist which may require any adjustment of the Conversion Rate, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed, herein or in any supplemental indenture provided to be employed, in making the same, or whether a supplemental indenture need be entered into. Neither the Trustee nor any Conversion Agent shall be accountable with respect to the validity or value (or the kind or amount) of any Common Stock, or of any other securities or property or cash, which may at any time be issued or delivered upon the conversion of any Notes; and it or they do not make any representation with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to make or calculate any cash payment or to issue, transfer or deliver any shares of Common Stock or share certificates or other securities or property or cash upon the surrender of any Note for the purpose of conversion; and the Trustee and any Conversion Agent shall not be responsible for any failure of the Company to comply with any of the covenants of the Company contained in this Article 13.

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ARTICLE 14  
REPURCHASE OF NOTES

Section 14.01. Right to Require Repurchase Upon a Designated Event.

(a) If a Designated Event occurs at any time, then each Holder shall have the right, at such Holder's option, to require the Company to repurchase all of such Holder's Notes or any portion thereof that is an integral multiple of \$1,000 principal amount, for cash on the date (the "Designated Event Repurchase Date") specified by the Company that is not less than 20 calendar days and not more than 35 calendar days after the date of the Designated Event Repurchase Right Notice at a repurchase price equal to 100% of the principal amount thereof, together with accrued and unpaid interest thereon to, but excluding, the Designated Event Repurchase Date, unless such Designated Event Repurchase Date falls after a Regular Record Date and on or prior to the corresponding Interest Payment Date, in which case the Company shall pay the full amount of accrued and unpaid interest payable on such Interest Payment Date to the holder of record at the close of business on the corresponding Regular Record Date (the "Designated Event Repurchase Price").

However, notwithstanding the foregoing, Holders shall not have the right to require the Company to repurchase any Notes under this Section 14.01 based on a Fundamental Change described in clause (a), (c) or (e) (or clause (d), if the same transaction) of the definition thereof (and the Company shall not be required to deliver the Designated Event Repurchase Right Notice incidental thereto) if 100% of the consideration paid for the Company's Common Stock (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights and cash dividends) in such transaction consists of shares of Capital Stock or American Depositary Receipts in respect of shares of Capital Stock traded (or will be so traded immediately following the merger or consolidation) on any of the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global

Select Market or the NASDAQ Global Market (or their respective successors) and, as a result of the completion of such transaction, the Notes become convertible in whole into such shares of such Capital Stock or such American Depositary Receipts, subject to the payment of the Principal Portion thereof in cash.

Repurchases of Notes under this Section 14.01 shall be made, at the option of the Holder thereof, upon:

- (i) delivery to the Trustee (or other Paying Agent appointed by the Company) by a Holder of a duly completed notice (the “Designated Event Repurchase Notice”) in the form set forth on the reverse of the Note prior to the close of business on the Business Day immediately preceding the Designated Event Repurchase Date; and
- (ii) delivery or book-entry transfer of the Notes to the Trustee (or other Paying Agent appointed by the Company) at any time after delivery of the Designated Event Repurchase Notice (together with all necessary endorsements) at the Corporate Trust Office of the Trustee (or other Paying Agent appointed by the Company), such delivery being a condition to receipt by the Holder of the Designated Event Repurchase Price therefor; *provided that* such Designated Event Repurchase Price shall be so paid pursuant to this Section 14.01 only if the Note so delivered to the Trustee (or other Paying Agent appointed by the Company) shall conform in all respects to the description thereof in the related Designated Event Repurchase Notice.

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The Designated Event Repurchase Notice shall state:

- (A) if certificated, the certificate numbers of Notes to be delivered for repurchase;
- (B) the portion of the principal amount of Notes to be repurchased, which must be \$1,000 or an integral multiple thereof; and
- (C) that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and this Indenture.

Any purchase by the Company contemplated pursuant to the provisions of this Section 14.01 shall be consummated by the delivery of the consideration to be received by the Holder promptly following the later of the Designated Event Repurchase Date and the time of the book-entry transfer or delivery of the Note.

The Trustee (or other Paying Agent appointed by the Company) shall promptly notify the Company of the receipt by it of any Designated Event Repurchase Notice or written notice of withdrawal thereof in accordance with the provisions of subsection (c) of this Section 14.01.

Any Note that is to be repurchased only in part shall be surrendered to the Trustee (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by the Holder thereof or his attorney duly authorized in writing), and the Company shall execute, and the Trustee shall authenticate and make available for delivery to the Holder of such Note without service charge, a new Note or Notes, containing identical terms and conditions, each in an authorized denomination in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Note so surrendered.

(b) After the occurrence of a Designated Event, but on or before the 10th calendar day after the Effective Date of such Designated Event, the Company shall provide to all Holders of record of the Notes and the Trustee and Paying Agent a notice of the occurrence of such Designated Event and of the repurchase right, if any (the “Designated Event Repurchase Right Notice”), at the option of the Holders arising as a result thereof.

Each Designated Event Repurchase Right Notice shall specify (if applicable):

- (i) the events causing the Designated Event;
- (ii) the date of the Designated Event;
- (iii) the Designated Event Repurchase Date and the last date on which a Holder may exercise the repurchase right;
- (iv) the Designated Event Repurchase Price;
- (v) the name and address of the Paying Agent and the Conversion Agent;

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- (vi) the applicable Conversion Rate and any adjustments to the applicable Conversion Rate;
  - (vii) that the Notes with respect to which a Designated Event Repurchase Notice has been delivered by a Holder may be converted only if the Holder withdraws the Designated Event Repurchase Notice in accordance with the terms of this Indenture;
  - (viii) that the Holder must exercise the repurchase right on or prior to the close of business on the Business Day immediately preceding the Designated Event Repurchase Date (the “Designated Event Expiration Time”);

(ix) that the Holder shall have the right to withdraw any Notes surrendered for repurchase prior to the Designated Event Expiration Time; and

(x) the procedures that Holders must follow to require the Company to repurchase their Notes.

Simultaneously with providing the Designated Event Repurchase Right Notice, the Company shall publish a notice containing the information described in this Section 14.01(b) in a newspaper of general circulation in The City of New York or publish such information on the Company's website or through such other public medium as the Company may use at that time. No failure of the Company to give the foregoing notices and no defect therein shall limit the Holders' repurchase rights or affect the validity of the proceedings for the repurchase of the Notes pursuant to this Section 14.01.

(c) A Designated Event Repurchase Right Notice may be withdrawn by means of a written notice of withdrawal delivered to the Paying Agent in accordance with the Designated Event Repurchase Right Notice at any time prior to the close of business on the Business Day prior to the Designated Event Repurchase Date, specifying:

(i) if certificated Notes have been issued, the certificate numbers of the withdrawn Notes,

(ii) the principal amount of the Note with respect to which such notice of withdrawal is being submitted, and

(iii) the principal amount, if any, of such Note that remains subject to the original Designated Event Repurchase Notice, which portion must be in principal amounts of \$1,000 or an integral multiple of \$1,000;

*provided, however*, that if the Notes are not in certificated form, the notice must comply with appropriate procedures of the Depository.

(d) On or prior to 11:00 a.m., New York City time, on the Designated Event Repurchase Date, the Company shall deposit with the Trustee (or other Paying Agent appointed by the Company or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 10.03) an amount of money sufficient to repurchase on the Designated Event Repurchase Date all of the Notes to be repurchased on such date at the

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Designated Event Repurchase Price. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for repurchase (and not withdrawn) prior to the Designated Event Expiration Time shall be made promptly after the later of (x) the Designated Event Repurchase Date with respect to such Note (*provided* that the Holder has satisfied the conditions to the payment of the Designated Event Repurchase Price in this Section 14.01), and (y) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by this Section 14.01. The Trustee shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Designated Event Repurchase Price.

(e) If the Trustee (or other Paying Agent appointed by the Company) holds money sufficient to repurchase on the Designated Event Repurchase Date all the Notes or portions thereof that are to be purchased as of the Business Day following the Designated Event Repurchase Date, then on and after the Designated Event Repurchase Date (i) such Notes shall cease to be outstanding, (ii) interest shall cease to accrue on such Notes, and (iii) all other rights of the Holders of such Notes shall terminate, whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Trustee or Paying Agent, other than the right to receive the Designated Event Repurchase Price upon delivery of the Notes.

## ARTICLE 15 MISCELLANEOUS

Section 15.01. Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA § 318(c), the imposed duties shall control.

Section 15.02. Notices.

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

If to the Company and/or any Guarantor:

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017  
Telecopier No.: (212) 297-2645  
Attention: Chief Financial Officer

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With a copy to:

Cravath, Swaine & Moore LLP  
825 Eighth Avenue  
Worldwide Plaza  
New York, NY 10019-7475  
Telecopier No.: (212) 474-3700  
Attention: Andrew J. Pitts

If to the Trustee:

The Bank of New York  
101 Barclay Street, Floor 8W  
New York, New York 10286  
Telecopier No.: (212) 815-5707  
Attention: Corporate Trust Administration

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

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

Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in TIA § 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

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

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

Section 15.03. Communication by Holders of Notes with Other Holders of Notes.

Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

Section 15.04. Certificate and Opinion as to Conditions Precedent.

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

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(a) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 15.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 15.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 15.05. Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA § 314(a)(4)) shall comply with the provisions of TIA § 314(e) and shall include:

(a) a statement that the Person making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 15.06. Rules by Trustee and Agents.

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

Section 15.07. No Personal Liability of Directors, Officers, Employees and Stockholders.

No past, present or future director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, shall have any liability for any obligations of the Company or such Guarantor under the Notes, the Subsidiary Guarantees, this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 15.08. Governing Law.

THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES.

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Section 15.09. No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 15.10. Successors.

All agreements of the Company in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors. All agreements of each Guarantor in this Indenture shall bind its successors.

Section 15.11. Severability.

In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 15.12. Counterpart Originals.

This Indenture may be executed in two or more separate counterparts. Each executed counterpart shall be an original, but all of them together represent the same agreement.

Section 15.13. Table of Contents, Headings, etc.

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 15.14. Benefits of Indenture.

Nothing in this Indenture, the Notes or the Subsidiary Guarantees, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, the holders of Senior Debt and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture

Section 15.15. Waiver of Jury Trial.

EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

[SIGNATURE PAGE FOLLOWS]

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## SIGNATURES

Dated as of March 16, 2007

Asbury Automotive Group, Inc.

By: /s/ J. Gordon Smith

Name: J. Gordon Smith

Title: Chief Financial Officer

Asbury Automotive Management L.L.C.

Asbury Automotive South, L.L.C.

Asbury Automotive West, L.L.C.

Asbury Automotive Southern California L.L.C.

Asbury Arkansas Hund L.L.C.

Asbury AR Niss L.L.C .

Asbury Automotive Arkansas Dealership

Holdings L.L.C.  
 Asbury Automotive Arkansas L.L.C.  
 Asbury MS Gray-Daniels L.L.C.  
 Asbury MS Metro L.L.C.  
 Escude-M L.L.C.  
 Escude-MO L.L.C.  
 Escude-NN L.L.C.  
 Escude-NS L.L.C.  
 Escude-T L.L.C.  
 NP FLM L.L.C.  
 NP MZD L.L.C.  
 NP VKW L.L.C.  
 Premier NSN L.L.C.  
 Premier Pon L.L.C.  
 Prestige Bay L.L.C.  
 Prestige Toy L.L.C.  
 Asbury Atlanta AC L.L.C.  
 Asbury Atlanta AU L.L.C.  
 Asbury Atlanta BM L.L.C.  
 Asbury Atlanta Chevrolet L.L.C.  
 Asbury Atlanta Hon L.L.C.  
 Asbury Atlanta Infiniti L.L.C.  
 Asbury Atlanta Jaguar L.L.C.  
 Asbury Atlanta Lex L.L.C.  
 Asbury Atlanta VL L.L.C.  
 Asbury Automotive Atlanta L.L.C.  
 Atlanta Real Estate Holdings L.L.C.  
 Spectrum Insurance Services L.L.C.  
 Asbury Automotive Fresno L.L.C.  
 Asbury Fresno Imports L.L.C.  
 AF Motors, L.L.C.  
 ALM Motors, L.L.C.

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ANL, L.P. (by its general partner Asbury Jax Management L.L.C.)  
 Asbury Automotive Central Florida, L.L.C.  
 Asbury Automotive Deland, L.L.C.  
 Asbury Automotive Florida, L.L.C.  
 Asbury Automotive Jacksonville GP L.L.C.  
 Asbury Automotive Jacksonville, L.P. (by its general partner Asbury Automotive Jacksonville GP L.L.C.)  
 Asbury Deland Imports 2, L.L.C.  
 Asbury Jax AC L.L.C.  
 Asbury Jax Holdings, L.P. (by its general partner Asbury Jax Management L.L.C.)  
 Asbury Jax K L.L.C.  
 Asbury Jax Management L.L.C.  
 Asbury Jax PB Chev L.L.C.  
 Asbury-Deland Imports, L.L.C.  
 Avenues Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 Bayway Financial Services, L.P. (by its general partner Asbury Jax Management L.L.C.)  
 BFP Motors L.L.C.  
 C&O Properties, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CFP Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CH Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CHO Partnership, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CK Chevrolet L.L.C.  
 CK Motors LLC  
 CN Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 Coggin Automotive Corp.  
 Coggin Cars L.L.C.  
 Coggin Chevrolet L.L.C.



Coggin Management, L.P. (by its general partner Asbury Jax Management L.L.C.)  
CP-GMC Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
CSA Imports L.L.C.  
HFP Motors L.L.C.  
KP Motors L.L.C.  
Asbury MS Chev, L.L.C.  
Asbury Automotive Mississippi, L.L.C.  
Asbury MS Wimber L.L.C.  
Asbury MS Yazoo L.L.C.  
Asbury No Cal Niss L.L.C.

Asbury Sacramento Imports L.L.C.  
Asbury So Cal DC L.L.C.  
Asbury So Cal Hon L.L.C.  
Asbury So Cal Niss L.L.C.  
Asbury Automotive North Carolina Dealership Holdings L.L.C.  
Asbury Automotive North Carolina L.L.C.  
Asbury Automotive North Carolina Management L.L.C.  
Asbury Automotive North Carolina Real Estate Holdings L.L.C.  
Camco Finance II L.L.C.  
Camco Finance L.L.C.  
Crown Acura/Nissan, LLC  
Crown Battleground, LLC  
Crown CHH L.L.C.  
Crown CHO L.L.C.  
Crown CHV L.L.C.  
Crown Dodge, LLC  
Crown FDO L.L.C.  
Crown FFO Holdings L.L.C.  
Crown FFO L.L.C.  
Crown Fordham L.L.C.  
Crown GAC L.L.C.  
Crown GAU L.L.C.  
Crown GBM L.L.C.  
Crown GCA L.L.C.  
Crown GCH L.L.C.  
Crown GDO L.L.C.  
Crown GH0 L.L.C.  
Crown GKI L.L.C.  
Crown GMI L.L.C.  
Crown GNI L.L.C.  
Crown GPG L.L.C.  
Crown GVO L.L.C.  
Crown Honda, LLC  
Crown Honda-Volvo, LLC  
Crown Mitsubishi, LLC  
Crown Motorcar Company L.L.C.  
Crown Raleigh L.L.C.  
Crown RIA L.L.C.  
Crown RIB L.L.C.  
Crown Royal Pontiac, LLC  
Crown SJC L.L.C.  
Crown SNI L.L.C.  
RER Properties, LLC  
RWIJ Properties, LLC  
Asbury Automotive Oregon L.L.C.  
Asbury Automotive Oregon Management L.L.C.

Thomason Auto Credit Northwest, Inc.  
 Thomason Dam L.L.C.  
 Thomason Hon L.L.C.  
 Thomason Hund L.L.C.  
 Thomason Maz L.L.C.  
 Thomason Niss L.L.C.  
 Thomason Outfitters L.L.C.  
 Thomason Pontiac-GMC L.L.C.  
 Thomason Suzu L.L.C.  
 Thomason TY L.L.C.  
 Thomason Zuk L.L.C.  
 Asbury Automotive St. Louis, L.L.C.  
 Asbury St. Louis Cadillac L.L.C.  
 Asbury St. Louis Lex L.L.C.  
 Asbury St. Louis Gen L.L.C.  
 Asbury Automotive Brandon, L.P. (by its  
 general partner Asbury Tampa Management  
 L.L.C.)  
 Asbury Automotive Tampa GP L.L.C.  
 Asbury Automotive Tampa, L.P. (by its general  
 partner Asbury Automotive Tampa GP L.L.C.)  
 Asbury Tampa Management L.L.C.  
 JC Dealer Systems L.L.C.  
 Precision Computer Services, Inc.  
 Precision Enterprises Tampa, Inc.  
 Precision Infiniti, Inc.  
 Precision Motorcars, Inc.  
 Precision Nissan, Inc.  
 Tampa Hund, L.P. (by its general partner  
 Asbury Tampa Management L.L.C.)  
 Tampa Kia, L.P. (by its general partner Asbury  
 Tampa Management L.L.C.)  
 Tampa LM, L.P. (by its general partner Asbury  
 Tampa Management L.L.C.)  
 Tampa Mit, L.P. (by its general partner Asbury  
 Tampa Management L.L.C.)  
 Tampa Suzu, L.P. (by its general partner  
 Asbury Tampa Management L.L.C.)  
 WMZ Brandon Motors, L.P. (by its general  
 partner Asbury Tampa Management L.L.C.)  
 WMZ Motors, L.P. (by its general partner  
 Asbury Tampa Management L.L.C.)  
 WTY Motors L.P. (by its general partner  
 Asbury Tampa Management L.L.C.)  
 Asbury Automotive Texas Holdings L.L.C.  
 Asbury Automotive Texas L.L.C.  
 Asbury Automotive Texas Real Estate

Holdings L.P. (by its general partner Asbury  
 Texas Management L.L.C.)  
 Asbury Texas Management L.L.C.  
 McDavid Auction, L.P. (by its general partner  
 Asbury Texas Management L.L.C.)  
 McDavid Austin-Acra, L.P. (by its general  
 partner Asbury Texas Management L.L.C.)  
 McDavid Frisco-Hon, L.P. (by its general  
 partner Asbury Texas Management L.L.C.)  
 McDavid Grande, L.P. (by its general partner  
 Asbury Texas Management L.L.C.)  
 McDavid Houston-Hon, L.P. (by its general  
 partner Asbury Texas Management L.L.C.)  
 McDavid Houston-Kia, L.P. (by its general  
 partner Asbury Texas Management L.L.C.)  
 McDavid Houston-Niss, L.P. (by its general  
 partner Asbury Texas Management L.L.C.)  
 McDavid Irving-Hon, L.P. (by its general  
 partner Asbury Texas Management L.L.C.)  
 McDavid Irving-PB&G, L.P. (by its general  
 partner Asbury Texas Management L.L.C.)  
 McDavid Irving-Zuk, L.P. (by its general

partner Asbury Texas Management L.L.C.)  
McDavid Outfitters, L.P. (by its general partner  
Asbury Texas Management L.L.C.)  
McDavid Plano-Acra, L.P. (by its general  
partner Asbury Texas Management L.L.C.)  
Plano Lincoln-Mercury, Inc.

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Vice President

Asbury Automotive Group Holdings, Inc.  
Asbury Automotive Group L.L.C.

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Senior Vice President

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Asbury Automotive Financial Services, Inc.

By: /s/ Lynne A. Burgess  
Name: Lynne A. Burgess  
Title: Vice President and Assistant Secretary

THE BANK OF NEW YORK  
as Trustee

By: /s/ Carlos R. Luciano  
Name: Carlos R. Luciano  
Title: Vice President

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EXHIBIT A

[Face of Note]

CUSIP: 043436AF1  
ISIN: US043436AF15

CUSIP for unrestricted notes:  
ISIN for unrestricted notes:

3.00% Senior Subordinated Convertible Notes due 2012

No. [1] \$

ASBURY AUTOMOTIVE GROUP, INC.

promises to pay to , or registered assigns, the principal sum of Dollars on September 15, 2012.

Interest Payment Dates: March 15 and September 15 of each year until maturity and the Maturity Date

Record Dates: March 1 with respect to March 15 Interest Payment Dates, September 1 with respect to September 15 Interest Payment Dates and September 15, 2012 with respect to interest payable at maturity.

Dated:

ASBURY AUTOMOTIVE GROUP, INC.

By: \_\_\_\_\_

Name:  
Title:

This is one of the Notes referred to in the within mentioned Indenture:

Dated:

THE BANK OF NEW YORK,  
As Trustee

By: \_\_\_\_\_  
Authorized Signatory

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[Back of Note]

3.00% Senior Subordinated Convertible Notes due 2012

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. INTEREST. Asbury Automotive Group, Inc., a Delaware corporation (the “Company”), promises to pay interest on the principal amount of this Note at 3.00% per annum from March 16, 2007 until maturity and shall pay the Special Interest payable pursuant to Section 2 of the Registration Rights Agreement referred to below. The Company will pay interest and Special Interest semi-annually in arrears on March 15 and September 15 of each year and on maturity, or if any such day is not a Business Day, on the next succeeding Business Day (each an “Interest Payment Date”). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided, further*, that the first Interest Payment Date shall be September 15, 2007. The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Special Interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

2. METHOD OF PAYMENT. The Company will pay interest on the Notes (except defaulted interest) and Special Interest to the Persons who are registered Holders of Notes at the close of business on (i) the 1<sup>st</sup> of March next preceding each March 15 Interest Payment Date; (ii) the 1<sup>st</sup> of September next preceding each September 15 Interest Payment Date; and (iii) September 15, 2012 with respect to interest payable at maturity even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, Special Interest, if any, and interest at the office or agency of the Company maintained for such purpose within the City and State of New York, or, at the option of the Company, payment of interest and Special Interest, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of, and interest and Special Interest, if any, on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

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3. PAYING AGENT AND REGISTRAR. Initially, The Bank of New York, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. INDENTURE. The Company issued the Notes under an Indenture dated as of March 16, 2007 (“Indenture”) between the Company, the Guarantors specified therein and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code §§ 77aaa-77bbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Company shall be entitled to issue additional Notes pursuant to Section 2.14 of the Indenture.

5. REPURCHASE AND CONVERSION. In any case where any Designated Event Repurchase Date or the last date on which a Holder has the right to convert his Notes shall not be a Business Day, then (notwithstanding any other provision of the Indenture or of the Notes) conversion of the Notes need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the Designated Event Repurchase Date or on such last day for conversion, *provided* that no interest shall accrue for the period from and after such Designated Event Repurchase Date. Notwithstanding the foregoing, the right to convert a Note shall cease at the close of business on the third Scheduled Trading Day immediately preceding the Maturity Date. Subject to the provisions of the Indenture, upon the occurrence of a Designated Event, the Holder has the right, at such Holder’s option, to require the Company to repurchase all of such Holder’s Notes or any portion thereof (in principal amounts of \$1,000 or integral multiples thereof) on the Designated Event Repurchase Date at a price equal to 100% of the principal amount of the Notes such Holder elects to require the

Company to repurchase, together with accrued and unpaid interest to but excluding the Designated Event Repurchase Date, unless such Designated Event Repurchase Date falls after a Regular Record Date and on or prior to the corresponding Interest Payment Date, in which case the Company shall pay the full amount of accrued and unpaid interest payable on such Interest Payment Date to the Holder of record at the close of business on the corresponding Regular Record Date. The Company or, at the written request of the Company, the Trustee shall mail to all Holders of record of the Notes a notice of the occurrence of a Designated Event and of the repurchase right arising as a result thereof after the occurrence of any Designated Event, but on or before the 10th calendar day following such occurrence.

Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, on and after June 15, 2012, or earlier upon the occurrence of certain conditions specified in the Indenture and prior to the close of business on the third Scheduled Trading Day immediately preceding the Maturity Date, to convert any Notes or portion thereof which is \$1,000 or an integral multiple thereof, into cash and, if applicable, shares of Common Stock or Reference Property, in each case at the Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture, upon satisfaction of certain requirements set forth in the Indenture, including the surrender of this Note, together with a Notice of Conversion, a form of which is contained under Exhibit A of the Indenture, as provided in the Indenture and this Note, to the Company at the office or agency of the Company maintained for that purpose, or at the option of such Holder, the Corporate Trust Office of the Trustee, and, unless the shares of

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Common Stock or Reference Property, as the case may be, issuable on conversion are to be issued in the same name as this Note, duly endorsed by, or accompanied by instruments of transfer in form satisfactory to the Company duly executed by, the Holder or by his duly authorized attorney. The initial Conversion Rate shall be 29.4172 shares of Common Stock for each \$1,000 principal amount of Notes. No fractional shares of Common Stock or Reference Property, as the case may be, shall be issued upon any conversion, but an adjustment in cash shall be paid to the Holder, as provided in the Indenture, in respect of any fraction of such share which would otherwise be issuable upon the surrender of any Note or Notes for conversion. No adjustment shall be made for dividends or any such shares issued upon conversion of such Notes except as provided in the Indenture.

6. MANDATORY REDEMPTION.

The Company shall not be required to make mandatory redemption payments with respect to the Notes.

7. ADDITIONAL RIGHTS OF HOLDERS OF RESTRICTED GLOBAL NOTES AND RESTRICTED DEFINITIVE NOTES. In addition to the rights provided to Holders of Notes under the Indenture, Holders of Restricted Global Notes and Restricted Definitive Notes shall have all the rights set forth in the Registration Rights Agreement dated as of March 16, 2007, between the Company and the parties named on the signature pages thereof (the “Registration Rights Agreement”).

8. [Reserved].

9. DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$1,000 and integral multiples of \$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes surrendered for conversion or during the period between a record date and the corresponding Interest Payment Date.

10. PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

11. AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Notes, voting as a single class, and any existing default or compliance with any provision of the Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes, voting as a single class. Without the consent of any Holder of a Note, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency or to make a modification of a formal, minor or technical nature or to correct a manifest error, to provide for uncertificated Notes in addition to or in place of certificated Notes,

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to provide for the assumption of the Company's or Guarantor's obligations to Holders of the Notes in case of a merger or consolidation or sale of all or substantially all of the Company's assets, to add Guarantees with respect to the Notes or to secure the Notes, to add to the covenants of the Company or any Guarantor for the benefit of the Holders of the Notes or surrender any right or power conferred upon the Company or any Guarantor, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act, to evidence and provide for the acceptance and appointment under the Indenture of a successor trustee pursuant to the requirements thereof, or to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture.

12. DEFAULTS AND REMEDIES. Events of Default include: (i) default for 30 days in the payment when due of interest on, or Special Interest, if any, with respect to, the Notes, whether or not prohibited by Article 10 of the Indenture; (ii) default in payment when due of principal of the Notes when the same becomes due and payable at maturity, upon redemption (including in connection with an offer to purchase) or otherwise, whether or not prohibited by Article 10 of the Indenture; (iii) failure by the Company to comply with the Conversion Obligation as that term is defined in the Indenture; (iv) failure by the Company to comply with Section 5.01 of the Indenture; (v) failure by the Company to comply in any material respect with its notice requirements under or Section 13.01(b) through (d) or Section 14.01(b) of the Indenture when due; (vi) failure by the Company or any of its Restricted Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in principal amount of the Notes (including Additional

Notes, if any) then outstanding voting as a single class to observe or perform any covenant or agreement in the Indenture; (vii) default under certain other agreements relating to Indebtedness of the Company or any of its Restricted Subsidiaries, which default is caused by a failure to pay principal at its stated final maturity (after giving effect to any applicable grace period provided in such Indebtedness) (a “Payment Default”) or results in the acceleration of such Indebtedness prior to its express maturity and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$15.0 million or more; (viii) certain final judgments for the payment of money that remain not paid, discharged or stayed for a period of 60 days, *provided* that the aggregate of all such not paid, discharged or stayed judgments exceeds \$15.0 million; (ix) certain events of bankruptcy or insolvency with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries as specified in clauses (j) and (k) of Section 6.01 of the Indenture; and (x) except as permitted by the Indenture, any Subsidiary Guarantee shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor or any Person acting on its behalf shall deny or disaffirm its obligations under such Guarantor’s Subsidiary Guarantee. If any Event of Default (other than an Event of Default specified in clause (j) or (k) of Section 6.01 of the Indenture with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries) occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Upon any such declaration the Notes shall become due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency as specified in clauses (j) and (k) of Section 6.01 of the Indenture with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries, all outstanding Notes will become due and payable

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immediately without further action or notice. Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal of, or interest on, any Note) if and so long as a committee of its Responsible Officers in good faith determines that withholding notice is in the interests of the Holders of the Notes. The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default and its consequences under the Indenture except a continuing Default in the payment of principal of, Special Interest, if any, or interest on, the Notes (other than non-payment of principal of or interest on or Special Interest, if any, on the Notes that become due solely because of the acceleration of the Notes) (*provided* that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

13. TRUSTEE DEALINGS WITH COMPANY. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

14. NO RECOURSE AGAINST OTHERS. A director, officer, employee, incorporator or stockholder, of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

15. AUTHENTICATION. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

16. ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

17. [Reserved].

18. CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Registration Rights Agreement. Requests may be made to:

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017  
Attention: Chief Financial Officer

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# ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

\_\_\_\_\_  
(Insert assignee's legal name)

\_\_\_\_\_  
(Insert assignee's Social Security or Tax Identification Number)

\_\_\_\_\_  
(Print or type assignee's name, address and zip code)

and irrevocably appoint \_\_\_\_\_  
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: \_\_\_\_\_

\_\_\_\_\_  
Your Signature:  
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee\*: \_\_\_\_\_  
\_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

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## SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Note Custodian

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## NOTICE OF CONVERSION

The undersigned Holder of this Note hereby irrevocably exercises the option to convert this Note, or any portion of the principal amount hereof (which is \$1,000 or an integral multiple of \$1,000 in excess thereof, *provided* that the unconverted portion of such principal amount is \$1,000 or any integral multiple of \$1,000 in excess thereof) below designated, into cash and, if applicable, shares of Common Stock or Reference Property in accordance with the terms of the Indenture referred to in this Note, and directs that such shares, together with a check in payment for any fractional share and any Notes representing any unconverted principal amount hereof, be delivered to and be registered in the name of the undersigned unless a different name has been indicated below. If shares of Common Stock, Reference Property or Notes are to be registered in the name of a Person other than the undersigned, (a) the undersigned shall pay all transfer taxes payable with respect thereto and (b) signature(s) must be guaranteed by an Eligible Guarantor Institution with membership in an approved signature guarantee program pursuant to Rule 17Ad-15 under the Securities Exchange Act of 1934. Any amount required to be paid by the undersigned on account of interest accompanies this Note.

Date: \_\_\_\_\_

\_\_\_\_\_  
Your Signature:  
(Sign exactly as your name appears on the face of this Note)

If shares or Notes are to be registered in the name of a Person other than the Holder, please print such Person's name and address:

\_\_\_\_\_  
(Name)

(Address)

Social Security or other Identification Number, if any

[Signature Guaranteed]

If only a portion of the Notes is to be converted, please indicate:

1. Principal amount to be converted: \$
  2. Principal amount and denomination of Notes
- representing unconverted principal amount to be issued:

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Amount: \$ Denominations: \$

(\$1,000 or any integral multiple of \$1,000 in excess thereof, *provided* that the unconverted portion of such principal amount is \$1,000 or any integral multiple of \$1,000 in excess thereof)

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EXHIBIT B

FORM OF CERTIFICATE OF TRANSFER

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017

[Registrar address block]

Re: 3.00% Senior Subordinated Convertible Notes due 2012

Reference is hereby made to the Indenture, dated as of March 16, 2007 (the “Indenture”), among Asbury Automotive Group, Inc., as issuer (the “Company”), the subsidiary guarantors listed on Schedule I to the Indenture, and The Bank of New York, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

, (the “Transferor”) owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$ in such Note[s] or interests (the “Transfer”), to (the “Transferee”), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. ☐ CHECK IF TRANSFeree WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE RESTRICTED GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the “Securities Act”), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a “qualified institutional buyer” within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

2. ☐ [RESERVED].

3. ☐ CHECK AND COMPLETE IF TRANSFeree WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE RESTRICTED GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE



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pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

- (a)      o such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;
- or
- (b)      o such Transfer is being effected to the Company or a subsidiary thereof;
- or
- (c)      o such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act;
- or
- (d)      o such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A or Rule 144, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Note and/or the Definitive Notes and in the Indenture and the Securities Act.
4.      o Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note.
- (a)      o Check if Transfer is pursuant to Rule 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private

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Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

- (b)      [Reserved].
- (c)      o Check if Transfer is Pursuant to Other Exemption. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

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This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

\_\_\_\_\_  
[Insert Name of Transferor]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

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## ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

- (a) o a beneficial interest in the:
- (i) o Restricted Global Note (CUSIP ), or
- (ii) [Reserved], or
- (b) o a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

- (a) o a beneficial interest in the:
- (i) o Restricted Global Note (CUSIP ), or
- (ii) [Reserved], or
- (iii) o Unrestricted Global Note (CUSIP ); or
- (b) o a Restricted Definitive Note; or
- (c) o an Unrestricted Definitive Note,
- in accordance with the terms of the Indenture.

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EXHIBIT C

## FORM OF CERTIFICATE OF EXCHANGE

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017

[Registrar address block]

Re: 3.00% Senior Subordinated Convertible Notes due 2012

(CUSIP )

Reference is hereby made to the Indenture, dated as of March 16, 2007 (the “Indenture”), among Asbury Automotive Group, Inc., as issuer (the “Company”), the subsidiary guarantors listed on Schedule I to the Indenture, and The Bank of New York, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

, (the “Owner”) owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$ in such Note[s] or interests (the “Exchange”). In connection with the Exchange, the Owner hereby certifies that:

1. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE

(a) o CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner’s beneficial interest in a Restricted Global Note for a

beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) o CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance

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with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) o CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) o CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES

(a) o CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) o CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the Restricted Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

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This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

\_\_\_\_\_  
[Insert Name of Transferor]

By: \_\_\_\_\_  
Name:  
Title

Date: \_\_\_\_\_

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FORM OF CERTIFICATE FROM  
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017

[Registrar address block]

Re: 3.00% Senior Subordinated Convertible Notes due 2012

Reference is hereby made to the Indenture, dated as of March 16, 2007 (the “Indenture”), among Asbury Automotive Group, Inc., as issuer (the “Company”), the subsidiary guarantors listed on Schedule I to the Indenture, and The Bank of New York, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of \$ \_\_\_\_\_ aggregate principal amount of:

- (a) o a beneficial interest in a Global Note, or
- (b) o a Definitive Note,

we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in compliance with, such restrictions and conditions and the United States Securities Act of 1933, as amended (the “Securities Act”).

2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Notes or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a “qualified institutional buyer” (as defined therein), (C) to an institutional “accredited investor” (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) pursuant to the provisions of Rule 144(k) under the Securities Act or (E) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any person purchasing the Definitive Note or beneficial interest in a Global Note from us in a transaction meeting the requirements of clauses (A) through (D) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

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3. We understand that, on any proposed resale of the Notes or beneficial interest therein, we will be required to furnish to you and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that the Notes purchased by us will bear a legend to the foregoing effect.

4. We are an institutional “accredited investor” (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes or beneficial interest therein purchased by us for our own account or for one or more accounts (each of which is an institutional “accredited investor”) as to each of which we exercise sole investment discretion.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

\_\_\_\_\_  
[Insert Name of Transferor]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title \_\_\_\_\_

Date: \_\_\_\_\_

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[FORM OF SUBSIDIARY GUARANTEE]

For value received, the Guarantors (which term includes any successor Persons under the Indenture) have, jointly and severally, guaranteed, to the extent set forth in the Indenture and subject to the provisions in the Indenture, dated as of March 16, 2007 (the "Indenture"), among Asbury Automotive Group, Inc., the Guarantors listed on Schedule I thereto and The Bank of New York, as trustee (the "Trustee"), (a) that the principal of, and interest and Special Interest, if any, on, the Notes (as defined in the Indenture) will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of, and interest and Special Interest, if any, on, the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee under the Indenture or the Notes will be promptly paid in full or performed, all in accordance with the terms of the Indenture and the Notes and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. The obligations of the Guarantors to the Holders of Notes and to the Trustee pursuant to the Subsidiary Guarantee and the Indenture are expressly set forth in Article 11 of the Indenture and reference is hereby made to the Indenture for the precise terms of the Subsidiary Guarantee. Each Holder of a Note, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee, on behalf of such Holder, to take such action as may be necessary or appropriate to effectuate the subordination as provided in the Indenture and (c) appoints the Trustee attorney-in-fact of such Holder for such purpose.

[NAME OF GUARANTOR(S)]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

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EXHIBIT F

[FORM OF SUPPLEMENTAL INDENTURE  
TO BE DELIVERED BY SUBSEQUENT GUARANTORS]

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of \_\_\_\_\_, among \_\_\_\_\_ (the "Guaranteeing Subsidiary"), a subsidiary of Asbury Automotive Group, Inc. (or its permitted successor), a Delaware corporation (the "Company"), the Company, the other Guarantors (as defined in the Indenture referred to herein) and The Bank of New York, as trustee under the indenture referred to below (the "Trustee").

W I T N E S S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the "Indenture"), dated as of March 16, 2007 providing for the issuance of 3.00% Senior Subordinated Convertible Notes due 2012 (the "Notes");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Company's Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "Subsidiary Guarantee"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees as follows:

(a) Along with all Guarantors named in the Indenture, to jointly and severally Guarantee to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, the Notes or the obligations of the Company hereunder or thereunder, that:

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

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

maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately.

(b) The obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.

(c) The following is hereby waived: diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever.

(d) This Subsidiary Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes and the Indenture, and the Guaranteeing Subsidiary accepts all obligations of a Guarantor under the Indenture.

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

(f) The Guaranteeing Subsidiary shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby.

(g) As between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 of the Indenture for the purposes of this Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 of the Indenture, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Subsidiary Guarantee.

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(h) The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Guarantee.

(i) Pursuant to Section 10.02 of the Indenture, after giving effect to any maximum amount and any other contingent and fixed liabilities that are relevant under any applicable Bankruptcy or fraudulent conveyance laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under Article 10 of the Indenture, this new Subsidiary Guarantee shall be limited to the maximum amount permissible such that the obligations of such Guarantor under this Subsidiary Guarantee will not constitute a fraudulent transfer or conveyance.

3. EXECUTION AND DELIVERY. Each Guaranteeing Subsidiary agrees that the Subsidiary Guarantees shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Subsidiary Guarantee.

4. GUARANTEEING SUBSIDIARY MAY CONSOLIDATE, ETC. ON CERTAIN TERMS. Except as set forth in Articles 4 and 5 of the Indenture, and notwithstanding clauses (a) and (b) above, nothing contained in the Indenture or in any of the Notes shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

## 5. RELEASES.

(a) In the event of (i) a sale or other disposition of all or substantially all of the assets of any Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all to the capital stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transaction) the Company or any other Guarantor; (ii) a termination of one or more Guarantees by any Guarantor of any other Senior Subordinated Indebtedness of the Company or any other Guarantor which results in such Guarantor no longer being subject to any Guarantee of any other Senior Subordinated Indebtedness of the Company or any other Guarantor or (iii) any Guarantor ceasing to be a Restricted Subsidiary, then such Guarantor (in the event described in clauses (i) and (iii) of this paragraph) or the corporation acquiring the property (in the event described in clause (ii) of this paragraph) will be released and relieved of any obligations under its Subsidiary Guarantee. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of the Indenture, the Trustee shall execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee.

(b) Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and

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interest on the Notes and for the other obligations of any Guarantor under the Indenture as provided in Article 11 of the Indenture.

6. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guaranteeing Subsidiary, as such, shall have any liability for any obligations of the Company or any Guaranteeing Subsidiary under the Notes, any Subsidiary Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

7. NEW YORK LAW TO GOVERN. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE.

8. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

9. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

10. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

SIGNATURES

Dated as of \_\_\_\_\_, 20 \_\_\_\_

ASBURY AUTOMOTIVE GROUP, INC.

By: \_\_\_\_\_  
Name:  
Title

EACH GUARANTOR LISTED ON SCHEDULE I  
HERETO

By: \_\_\_\_\_  
Name:  
Title

THE BANK OF NEW YORK

By: \_\_\_\_\_  
Name:  
Title

SCHEDULE I

SCHEDULE OF GUARANTORS

The following schedule lists each Guarantor under the Indenture as of the Issue Date:

Legal Name
Asbury Automotive Financial Services, Inc.
Asbury Automotive Group Holdings, Inc.
Asbury Automotive Group L.L.C.
Asbury Automotive Management L.L.C.
Asbury Automotive South, L.L.C.
Asbury Automotive West, L.L.C.
Asbury Automotive Southern California L.L.C.

Asbury Arkansas Hund L.L.C.  
Asbury AR Niss L.L.C .  
Asbury Automotive Arkansas Dealership Holdings L.L.C.  
Asbury Automotive Arkansas L.L.C.  
Asbury MS Gray-Daniels L.L.C.  
Asbury MS Metro L.L.C.  
Escude-M L.L.C.  
Escude-MO L.L.C.  
Escude-NN L.L.C.  
Escude-NS L.L.C.  
Escude-T L.L.C.  
NP FLM L.L.C.  
NP MZD L.L.C.  
NP VKW L.L.C.  
Premier NSN L.L.C.  
Premier Pon L.L.C.  
Prestige Bay L.L.C.  
Prestige Toy L.L.C.  
Asbury Atlanta AC L.L.C.  
Asbury Atlanta AU L.L.C.  
Asbury Atlanta BM L.L.C.  
Asbury Atlanta Chevrolet L.L.C.  
Asbury Atlanta Hon L.L.C.  
Asbury Atlanta Infiniti L.L.C.  
Asbury Atlanta Jaguar L.L.C.  
Asbury Atlanta Lex L.L.C.  
Asbury Atlanta VL L.L.C.  
Asbury Automotive Atlanta L.L.C.  
Atlanta Real Estate Holdings L.L.C.  
Spectrum Insurance Services L.L.C.  
Asbury Automotive Fresno L.L.C.  
Asbury Fresno Imports L.L.C.  
AF Motors, L.L.C.

ALM Motors, L.L.C.  
ANL, L.P.  
Asbury Automotive Central Florida, L.L.C.  
Asbury Automotive Deland, L.L.C.  
Asbury Automotive Florida, L.L.C.  
Asbury Automotive Jacksonville GP L.L.C.  
Asbury Automotive Jacksonville, L.P.  
Asbury Deland Imports 2, L.L.C.  
Asbury Jax AC, L.L.C.  
Asbury Jax Holdings, L.P.  
Asbury Jax K, L.L.C.  
Asbury Jax Management L.L.C.  
Asbury Jax PB Chev, L.L.C.  
Asbury-Deland Imports, L.L.C.  
Avenues Motors, Ltd.  
Bayway Financial Services, L.P.  
BFP Motors L.L.C.  
C&O Properties, Ltd.  
CFP Motors, Ltd.  
CH Motors, Ltd.  
CHO Partnership, Ltd.  
CK Chevrolet L.L.C.  
CK Motors LLC  
CN Motors, Ltd.  
Coggin Automotive Corp.  
Coggin Cars L.L.C.  
Coggin Chevrolet L.L.C.  
Coggin Management, L.P.  
CP-GMC Motors, Ltd.  
CSA Imports L.L.C.  
HFP Motors L.L.C.  
KP Motors L.L.C.  
Asbury Automotive Mississippi, L.L.C.  
Asbury MS Chev, L.L.C.  
Asbury MS Wimber L.L.C.  
Asbury MS Yazoo L.L.C.  
Asbury No Cal Niss L.L.C.



Asbury Sacramento Imports L.L.C.  
Asbury So Cal DC L.L.C.  
Asbury So Cal Hou L.L.C.  
Asbury So Cal Niss L.L.C.  
Asbury Automotive North Carolina Dealership Holdings L.L.C.  
Asbury Automotive North Carolina L.L.C.  
Asbury Automotive North Carolina Management L.L.C.  
Asbury Automotive North Carolina Real Estate Holdings L.L.C.  
Camco Finance II L.L.C.  
Camco Finance L.L.C.  
Crown Acura/Nissan, LLC  
Crown Battleground, LLC

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Crown CHH L.L.C.  
Crown CHO L.L.C.  
Crown CHV L.L.C.  
Crown Dodge, LLC  
Crown FDO L.L.C.  
Crown FFO Holdings L.L.C.  
Crown FFO L.L.C.  
Crown Fordham L.L.C.  
Crown GAC L.L.C.  
Crown GAU L.L.C.  
Crown GBM L.L.C.  
Crown GCA L.L.C.  
Crown GCH L.L.C.  
Crown GDO L.L.C.  
Crown GH0 L.L.C.  
Crown GKI L.L.C.  
Crown GMI L.L.C.  
Crown GNI L.L.C.  
Crown GPG L.L.C.  
Crown GVO L.L.C.  
Crown Honda, LLC  
Crown Honda-Volvo, LLC  
Crown Mitsubishi, LLC  
Crown Motorcar Company L.L.C.  
Crown Raleigh L.L.C.  
Crown RIA L.L.C.  
Crown RIB L.L.C.  
Crown Royal Pontiac, LLC  
Crown SJC L.L.C.  
Crown SNI L.L.C.  
RER Properties, LLC  
RWIJ Properties, LLC  
Asbury Automotive Oregon L.L.C.  
Asbury Automotive Oregon Management L.L.C.  
Thomason Frd L.L.C.  
Thomason Auto Credit Northwest, Inc.  
Thomason Dam L.L.C.  
Thomason Hon L.L.C.  
Thomason Hund L.L.C.  
Thomason Maz L.L.C.  
Thomason Niss L.L.C.  
Thomason Outfitters L.L.C.  
Thomason Pontiac-GMC L.L.C.  
Thomason Suzu L.L.C.  
Thomason TY L.L.C.  
Thomason Zuk L.L.C.  
Asbury Automotive St. Louis, L.L.C.  
Asbury St. Louis Lex L.L.C.  
Asbury St. Louis Cadillac L.L.C.

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Asbury St. Louis Gen L.L.C.  
Asbury Automotive Brandon, L.P.

Asbury Automotive Tampa GP L.L.C.  
Asbury Automotive Tampa, L.P.  
Asbury Tampa Management L.L.C.  
JC Dealer Systems LLC (formerly known as Dealer Profit Systems L.L.C.)  
Precision Computer Services, Inc.  
Precision Enterprises Tampa, Inc.  
Precision Infiniti, Inc.  
Precision Motorcars, Inc.  
Precision Nissan, Inc.  
Tampa Hund, L.P.  
Tampa Kia, L.P.  
Tampa LM, L.P.  
Tampa Mit, L.P.  
Tampa Suzu, L.P.  
WMZ Brandon Motors, L.P.  
WMZ Motors, L.P.  
WTY Motors, L.P.  
Asbury Automotive Texas Holdings L.L.C.  
Asbury Automotive Texas L.L.C.  
Asbury Automotive Texas Real Estate Holdings L.P.  
Asbury Texas Management L.L.C.  
McDavid Auction, L.P.  
McDavid Austin-Acra, L.P.  
McDavid Frisco-Hon, L.P.  
McDavid Grande, L.P.  
McDavid Houston-Hon, L.P.  
McDavid Houston-Kia, L.P.  
McDavid Houston-Niss, L.P.  
McDavid Irving-Hon, L.P.  
McDavid Irving-PB&G, L.P.  
McDavid Irving-Zuk, L.P.  
McDavid Outfitters, L.P.  
McDavid Plano-Acra, L.P.  
Plano Lincoln-Mercury, Inc.

SCHEDULE II

The following table sets forth the “Stock Price,” “Effective Date” and number of Additional Shares by which the Conversion Rate for the Notes shall be increased in the event of a Fundamental Change, in accordance with the Indenture:

Effective Date	Stock Price										
	\$27.75	\$28.00	\$29.00	\$30.00	\$32.50	\$35.00	\$37.50	\$40.00	\$45.00	\$50.00	\$60.00
March 16, 2007	6.6188	6.4531	5.8213	5.2511	4.0526	3.1150	2.3775	1.7959	0.9753	0.4734	0.0572
September 15, 2007	6.6188	6.5766	5.9271	5.3414	4.1125	3.1536	2.4015	1.8099	0.9782	0.4708	0.0497
September 15, 2008	6.6188	6.6188	6.0241	5.4106	4.1300	3.1390	2.3687	1.7682	0.9359	0.4395	0.0417
September 15, 2009	6.6188	6.6188	6.0099	5.3649	4.0297	3.0108	2.2312	1.6341	0.8281	0.3653	0.0248
September 15, 2010	6.6188	6.6188	5.8648	5.1750	3.7659	2.7159	1.9351	1.3561	0.6146	0.2271	0.0053
September 15, 2011	6.6188	6.3920	5.5162	4.7450	3.2087	2.1213	1.3661	0.8509	0.2801	0.0591	0.0000
September 15, 2012	6.6188	6.2971	5.0656	3.9162	1.3521	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

[Face of Note]

CUSIP: 043436AF1

ISIN: US043436AF15

CUSIP for unrestricted notes:

ISIN for unrestricted notes:

3.00% Senior Subordinated Convertible Notes due 2012

No. [1]

ASBURY AUTOMOTIVE GROUP, INC.

\$

promises to pay to \_\_\_\_\_, or registered assigns, the principal sum of \_\_\_\_\_ Dollars on September 15, 2012.

Interest Payment Dates: March 15 and September 15 of each year until maturity and the Maturity Date

Record Dates: March 1 with respect to March 15 Interest Payment Dates, September 1 with respect to September 15 Interest Payment Dates and September 15, 2012 with respect to interest payable at maturity.

Dated:

ASBURY AUTOMOTIVE GROUP, INC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

This is one of the Notes referred to in the within mentioned Indenture:

Dated:

THE BANK OF NEW YORK,  
As Trustee

By: \_\_\_\_\_  
Authorized Signatory

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[Back of Note]

3.00% Senior Subordinated Convertible Notes due 2012

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. INTEREST. Asbury Automotive Group, Inc., a Delaware corporation (the “Company”), promises to pay interest on the principal amount of this Note at 3.00% per annum from March 16, 2007 until maturity and shall pay the Special Interest payable pursuant to Section 2 of the Registration Rights Agreement referred to below. The Company will pay interest and Special Interest semi-annually in arrears on March 15 and September 15 of each year and on maturity, or if any such day is not a Business Day, on the next succeeding Business Day (each an “Interest Payment Date”). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided, further*, that the first Interest Payment Date shall be September 15, 2007. The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Special Interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

2. METHOD OF PAYMENT. The Company will pay interest on the Notes (except defaulted interest) and Special Interest to the Persons who are registered Holders of Notes at the close of business on (i) the 1<sup>st</sup> of March next preceding each March 15 Interest Payment Date; (ii) the 1<sup>st</sup> of September next preceding each September 15 Interest Payment Date; and (iii) September 15, 2012 with respect to interest payable at maturity even if such

Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, Special Interest, if any, and interest at the office or agency of the Company maintained for such purpose within the City and State of New York, or, at the option of the Company, payment of interest and Special Interest, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of, and interest and Special Interest, if any, on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

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3. PAYING AGENT AND REGISTRAR. Initially, The Bank of New York, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. INDENTURE. The Company issued the Notes under an Indenture dated as of March 16, 2007 ("Indenture") between the Company, the Guarantors specified therein and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code §§ 77aaa-77bbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Company shall be entitled to issue additional Notes pursuant to Section 2.14 of the Indenture.

5. REPURCHASE AND CONVERSION. In any case where any Designated Event Repurchase Date or the last date on which a Holder has the right to convert his Notes shall not be a Business Day, then (notwithstanding any other provision of the Indenture or of the Notes) conversion of the Notes need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the Designated Event Repurchase Date or on such last day for conversion, *provided* that no interest shall accrue for the period from and after such Designated Event Repurchase Date. Notwithstanding the foregoing, the right to convert a Note shall cease at the close of business on the third Scheduled Trading Day immediately preceding the Maturity Date. Subject to the provisions of the Indenture, upon the occurrence of a Designated Event, the Holder has the right, at such Holder's option, to require the Company to repurchase all of such Holder's Notes or any portion thereof (in principal amounts of \$1,000 or integral multiples thereof) on the Designated Event Repurchase Date at a price equal to 100% of the principal amount of the Notes such Holder elects to require the Company to repurchase, together with accrued and unpaid interest to but excluding the Designated Event Repurchase Date, unless such Designated Event Repurchase Date falls after a Regular Record Date and on or prior to the corresponding Interest Payment Date, in which case the Company shall pay the full amount of accrued and unpaid interest payable on such Interest Payment Date to the Holder of record at the close of business on the corresponding Regular Record Date. The Company or, at the written request of the Company, the Trustee shall mail to all Holders of record of the Notes a notice of the occurrence of a Designated Event and of the repurchase right arising as a result thereof after the occurrence of any Designated Event, but on or before the 10th calendar day following such occurrence.

Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, on and after June 15, 2012, or earlier upon the occurrence of certain conditions specified in the Indenture and prior to the close of business on the third Scheduled Trading Day immediately preceding the Maturity Date, to convert any Notes or portion thereof which is \$1,000 or an integral multiple thereof, into cash and, if applicable, shares of Common Stock or Reference Property, in each case at the Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture, upon satisfaction of certain requirements set forth in the Indenture, including the surrender of this Note, together with a Notice of Conversion, a form of which is contained under Exhibit A of the Indenture, as provided in the Indenture and this Note, to the Company at the office or agency of the Company maintained for that purpose, or at the option of such Holder, the Corporate Trust Office of the Trustee, and, unless the shares of

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Common Stock or Reference Property, as the case may be, issuable on conversion are to be issued in the same name as this Note, duly endorsed by, or accompanied by instruments of transfer in form satisfactory to the Company duly executed by, the Holder or by his duly authorized attorney. The initial Conversion Rate shall be 29.4172 shares of Common Stock for each \$1,000 principal amount of Notes. No fractional shares of Common Stock or Reference Property, as the case may be, shall be issued upon any conversion, but an adjustment in cash shall be paid to the Holder, as provided in the Indenture, in respect of any fraction of such share which would otherwise be issuable upon the surrender of any Note or Notes for conversion. No adjustment shall be made for dividends or any such shares issued upon conversion of such Notes except as provided in the Indenture.

6. MANDATORY REDEMPTION.

The Company shall not be required to make mandatory redemption payments with respect to the Notes.

7. ADDITIONAL RIGHTS OF HOLDERS OF RESTRICTED GLOBAL NOTES AND RESTRICTED DEFINITIVE NOTES. In addition to the rights provided to Holders of Notes under the Indenture, Holders of Restricted Global Notes and Restricted Definitive Notes shall have all the rights set forth in the Registration Rights Agreement dated as of March 16, 2007, between the Company and the parties named on the signature pages thereof (the "Registration Rights Agreement").

8. [Reserved].

9. DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$1,000 and integral multiples of \$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note

or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes surrendered for conversion or during the period between a record date and the corresponding Interest Payment Date.

10. PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

11. AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Notes, voting as a single class, and any existing default or compliance with any provision of the Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes, voting as a single class. Without the consent of any Holder of a Note, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency or to make a modification of a formal, minor or technical nature or to correct a manifest error, to provide for uncertificated Notes in addition to or in place of certificated Notes,

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to provide for the assumption of the Company's or Guarantor's obligations to Holders of the Notes in case of a merger or consolidation or sale of all or substantially all of the Company's assets, to add Guarantees with respect to the Notes or to secure the Notes, to add to the covenants of the Company or any Guarantor for the benefit of the Holders of the Notes or surrender any right or power conferred upon the Company or any Guarantor, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act, to evidence and provide for the acceptance and appointment under the Indenture of a successor trustee pursuant to the requirements thereof, or to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture.

12. DEFAULTS AND REMEDIES. Events of Default include: (i) default for 30 days in the payment when due of interest on, or Special Interest, if any, with respect to, the Notes, whether or not prohibited by Article 10 of the Indenture; (ii) default in payment when due of principal of the Notes when the same becomes due and payable at maturity, upon redemption (including in connection with an offer to purchase) or otherwise, whether or not prohibited by Article 10 of the Indenture; (iii) failure by the Company to comply with the Conversion Obligation as that term is defined in the Indenture; (iv) failure by the Company to comply with Section 5.01 of the Indenture; (v) failure by the Company to comply in any material respect with its notice requirements under or Section 13.01(b) through (d) or Section 14.01(b) of the Indenture when due; (vi) failure by the Company or any of its Restricted Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class to observe or perform any covenant or agreement in the Indenture; (vii) default under certain other agreements relating to Indebtedness of the Company or any of its Restricted Subsidiaries, which default is caused by a failure to pay principal at its stated final maturity (after giving effect to any applicable grace period provided in such Indebtedness) (a "Payment Default") or results in the acceleration of such Indebtedness prior to its express maturity and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$15.0 million or more; (viii) certain final judgments for the payment of money that remain not paid, discharged or stayed for a period of 60 days, *provided* that the aggregate of all such not paid, discharged or stayed judgments exceeds \$15.0 million; (ix) certain events of bankruptcy or insolvency with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries as specified in clauses (j) and (k) of Section 6.01 of the Indenture; and (x) except as permitted by the Indenture, any Subsidiary Guarantee shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor or any Person acting on its behalf shall deny or disaffirm its obligations under such Guarantor's Subsidiary Guarantee. If any Event of Default (other than an Event of Default specified in clause (j) or (k) of 6.01 of the Indenture with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries) occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Upon any such declaration the Notes shall become due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency as specified in clauses (j) and (k) of Section 6.01 of the Indenture with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries, all outstanding Notes will become due and payable

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immediately without further action or notice. Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal of, or interest on, any Note) if and so long as a committee of its Responsible Officers in good faith determines that withholding notice is in the interests of the Holders of the Notes. The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default and its consequences under the Indenture except a continuing Default in the payment of principal of, Special Interest, if any, or interest on, the Notes (other than non-payment of principal of or interest on or Special Interest, if any, on the Notes that become due solely because of the acceleration of the Notes) (*provided* that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

13. TRUSTEE DEALINGS WITH COMPANY. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

14. NO RECOURSE AGAINST OTHERS. A director, officer, employee, incorporator or stockholder, of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

15. AUTHENTICATION. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

16. ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

17. [Reserved].

18. CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Registration Rights Agreement. Requests may be made to:

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017  
Attention: Chief Financial Officer

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#### ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

\_\_\_\_\_  
(Insert assignee's legal name)

\_\_\_\_\_  
(Insert assignee's Social Security or Tax Identification Number)

\_\_\_\_\_  
(Print or type assignee's name, address and zip code)

and irrevocably appoint \_\_\_\_\_  
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: \_\_\_\_\_

(Sign exactly as your name appears on the face of this Note)

Your  
Signature: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\_\_\_\_\_  
\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

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#### SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Note Custodian

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## NOTICE OF CONVERSION

The undersigned Holder of this Note hereby irrevocably exercises the option to convert this Note, or any portion of the principal amount hereof (which is \$1,000 or an integral multiple of \$1,000 in excess thereof, *provided* that the unconverted portion of such principal amount is \$1,000 or any integral multiple of \$1,000 in excess thereof) below designated, into cash and, if applicable, shares of Common Stock or Reference Property in accordance with the terms of the Indenture referred to in this Note, and directs that such shares, together with a check in payment for any fractional share and any Notes representing any unconverted principal amount hereof, be delivered to and be registered in the name of the undersigned unless a different name has been indicated below. If shares of Common Stock, Reference Property or Notes are to be registered in the name of a Person other than the undersigned, (a) the undersigned shall pay all transfer taxes payable with respect thereto and (b) signature(s) must be guaranteed by an Eligible Guarantor Institution with membership in an approved signature guarantee program pursuant to Rule 17Ad-15 under the Securities Exchange Act of 1934. Any amount required to be paid by the undersigned on account of interest accompanies this Note.

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

If shares or Notes are to be registered in the name of a Person other than the Holder, please print such Person's name and address:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Social Security or other Identification Number, if any

\_\_\_\_\_  
[Signature Guaranteed]

If only a portion of the Notes is to be converted, please indicate:

- Principal amount to be converted: \$
- Principal amount and denomination of Notes

representing unconverted principal amount to be issued:

11

Amount: \$

Denominations: \$

(\$1,000 or any integral multiple of \$1,000 in excess thereof, *provided* that the unconverted portion of such principal amount is \$1,000 or any integral multiple of \$1,000 in excess thereof)

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**ASBURY AUTOMOTIVE GROUP, INC.**

**and each of the Guarantors named herein**

**7.625% SENIOR SUBORDINATED NOTES DUE 2017**

**INDENTURE**

**Dated as of March 26, 2007**

**THE BANK OF NEW YORK**

**as Trustee**

**CROSS-REFERENCE TABLE\***

<b>Trust Indenture Act Section</b>	<b>Indenture Section</b>
310 (a)(1)	7.10
(a)(2)	7.10
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	N.A.
(b)	7.10
(c)	N.A.
311 (a)	7.11
(b)	7.11
(c)	N.A.
312 (a)	2.05
(b)	13.03
(c)	13.03
313 (a)	7.06
(b)(1)	N.A.
(b)(2)	7.06, 7.07
(c)	7.06, 13.02
(d)	7.06
314 (a)	4.03, 13.02
(b)	N.A.
(c)(1)	13.04
(c)(2)	13.04
(c)(3)	N.A.
(d)	N.A.
(e)	13.05
(f)	N.A.
315 (a)	7.01
(b)	7.05, 13.02
(c)	7.01
(d)	7.01
(e)	6.11
316 (a) (last sentence)	2.09
(a)(1)(A)	6.05
(a)(1)(B)	6.04
(a)(2)	N.A.
(b)	6.07



\* This Cross Reference Table is not a part of the Indenture.

N.A. means not applicable.

<b>Trust Indenture Act Section</b>	<b>Indenture Section</b>
317 (a)(1)	6.08
(a)(2)	6.09
(b)	2.04
318 (a)	13.01
(b)	N.A.
(c)	13.01

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Exhibit E	Form of Subsidiary Guarantee
Exhibit F	Form of Supplemental Indenture To Be Delivered By Subsequent Guarantors

## SCHEDULES

Schedule I	Schedule of Guarantors
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INDENTURE dated as of March 26, 2007 among Asbury Automotive Group, Inc., a Delaware corporation (the “Company”), the subsidiary guarantors listed on Schedule I hereto (collectively, the “Guarantors”) and The Bank of New York, a New York banking corporation, as trustee (the “Trustee”).

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the 7.625% Senior Subordinated Notes due 2017 (the “Notes”):

### ARTICLE 1 DEFINITIONS AND INCORPORATION BY REFERENCE

#### Section 1.01. Definitions.

“144A Global Note” means a global note substantially in the form of Exhibit A-1 hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

“Acquired Debt” means, with respect to any specified Person, (i) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Subsidiary of, such specified Person and (ii) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“Additional Notes” means additional notes (other than the Initial Notes) issued from time to time under this Indenture in accordance with Sections 2.02, 2.14 and 4.09 hereof, as part of the same series as the Initial Notes.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control,” as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; *provided* that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control. For purposes of this definition, the terms “controlling,” “controlled by” and “under common control with” have correlative meanings.

“Agent” means any Registrar, Paying Agent or co-registrar.

“Applicable Premium” means, with respect to a Note at any Redemption Date, the greater of (i) 1.0% of the principal amount of such Note and (ii) the excess of (A) the present value at such Redemption Date of (1) the redemption price of such Note at March 15, 2012 (such redemption price being described in Section 3.07 hereof) plus (2) all required interest payments due on such Note through March 15, 2012 (excluding accrued but unpaid interest), computed, in

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both cases, using a discount rate equal to the Treasury Rate plus 50 basis points, over, (B) the principal amount of such Note.

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

“Asset Sale” means: (i) the sale, lease, conveyance or other disposition of any assets or rights; *provided* that the sale, conveyance or other disposition of all or substantially all of the assets of the Company and its Subsidiaries taken as a whole will be governed by Section 4.15 and/or Section 5.01 of this Indenture and not by the provisions of Section 4.10 hereof; and (ii) the issuance of Equity Interests by any of the Company’s Restricted Subsidiaries or the sale of Equity Interests in any of its Restricted Subsidiaries.

Notwithstanding the preceding, the following items will not be deemed to be Asset Sales: (1) for purposes of Section 4.10 hereof only, any single transaction or series of related transactions that involves assets having a fair market value of less than \$2.5 million; (2) a transfer of assets between or among the Company and its Restricted Subsidiaries, (3) an issuance of Equity Interests by a Subsidiary to the Company or to a Restricted Subsidiary of the Company; (4) the sale or lease of inventory or accounts receivable in the ordinary course of business; (5) the sale of obsolete or damaged equipment in the ordinary course of business; (6) the sale or other disposition of cash of Cash Equivalents; (7) for purposes of Section 4.10 hereof only, a Restricted Payment or Permitted Investment that is permitted by Section 4.07 of this Indenture; (8) any sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary; and (9) the creation of Liens.

“Attributable Debt” in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP.

“Bankruptcy Law” means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

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

“Board of Directors” means (i) with respect to a corporation, the board of directors of the corporation; (ii) with respect to a partnership, the board of directors of the general partner of the partnership; and (iii) with respect to any other Person, the board or committee of such Person serving a similar function.

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“Board Resolution” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification.

“Broker-Dealer” has the meaning set forth in the Registration Rights Agreement.

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

“Capital Lease Obligation” means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP.

“Capital Stock” means: (i) in the case of a corporation, corporate stock; (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (iii) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

“Cash Equivalents” means (i) United States dollars; (ii) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (*provided* that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than six months from the date of acquisition; (iii) 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 which is organized under the laws of the United States, any state thereof or any foreign country recognized by the United States, and which bank or trust company has capital, surplus aggregating in excess of \$500.0 million 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 Rule 436 under the Securities Act) or any money-market fund sponsored by a registered broker dealer or mutual fund distributor; (iv) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (ii) and (iii) above entered into with any financial institution meeting the qualifications specified in clause (iii) above; (v) commercial paper having the highest rating obtainable from Moody’s Investors Service, Inc. or Standard & Poor’s Ratings Services (or carrying an equivalent rating by another nationally recognized statistical rating organization (as defined under Rule 436 under the Securities Act) if both of such two rating agencies cease publishing ratings of investments) and maturing not more than 180 days from the date of acquisition; (vi) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (i) through (v) above; and (vii) in the case of any Subsidiary organized or having its principal place of business outside the United States, investments denominated in the currency of the jurisdiction in which that Subsidiary is organized or has its principal place of business which are similar to the items specified in clauses (i) through (vi) above, including, without limitation, any deposit with a bank that is a lender to any Restricted Subsidiary of the Company.

“Change of Control” means the occurrence of any of the following: (i) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries, taken as a whole, to any “person” (as

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that term is used in Section 13(d)(3) of the Exchange Act); (ii) the adoption of a plan relating to the liquidation or dissolution of the Company; (iii) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any “person” (as defined above) becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company, measured by voting power rather than number of shares; (iv) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors; or (v) the Company’s merger or consolidation with or into any Person, or the consolidation of any Person with, or the merger of any Person with or into, the Company, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of the Company or such other Person is converted into or exchanged for cash, securities or other property, other than any such transaction where the Voting Stock of the Company outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock (other than Disqualified Stock) of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance).

“Clearstream” means ClearStream Bank S.A.

“Company” means Asbury Automotive Group, Inc., and any and all successors thereto.

“Consolidated Cash Flow” means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period *plus*, without duplication: (i) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; *plus* (ii) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether or not capitalized ((i) including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Debt, commissions, discounts and other fees and charges incurred in respect of letters of credit or bankers’ acceptance financings and net of the effect of all payments made or received pursuant to Hedging Obligations and (ii) excluding interest expense attributable to Indebtedness incurred under Floor Plan Facilities), to the extent that any such expense was deducted in computing such Consolidated Net Income; *plus* (iii) depreciation, amortization (including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; *minus* (iv) non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business, in each case, on a consolidated basis and determined in accordance with GAAP.

“Consolidated Net Income” means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP, *provided* that: (i) the Net Income (or loss) of any Person that is not a Restricted Subsidiary of such Person or that is

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accounted for by the equity method of accounting will not be included except such Net Income will be included to the extent of the amount of dividends or distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person; (ii) the Net Income of any Restricted Subsidiary of such Person will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders; (iii) the Net Income (or loss) of any Person acquired in a pooling of interests transaction for any period prior to the date of such acquisition will be excluded; and (iv) the cumulative effect of a change in accounting principles will be excluded.

“Consolidated Net Tangible Assets” of any Person means, as of any date, the amount which, in accordance with GAAP, would be set forth under the caption “Total Assets” (or any like caption) on a consolidated balance sheet of such Person and its Restricted Subsidiaries, as of the end of the most recently ended fiscal quarter for which internal financial statements are available, less all intangible assets, including, without limitation, goodwill, organization costs, patents, trademarks, copyrights, franchises, and research and development costs.

“Continuing Directors” means, as of any date of determination, any member of the Board of Directors of the Company who (i) was a member of such Board of Directors on the date of this Indenture; or (ii) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board at the time of such nomination or election.

“Corporate Trust Office of the Trustee” shall be at the address of the Trustee specified in Section 13.02 hereof or such other address as to which the Trustee may give notice to the Company.

“Credit Agreement” means that Revolving Credit Agreement, dated as of March 23, 2005, among the Company, the Subsidiary Borrowers listed therein, as Borrowers, the Lenders listed therein, JPMorgan Chase Bank, N.A., as Administrative Agent and as Floor Plan Agent, and Bank of America, N.A., as Syndication Agent, as amended by the First Amendment to Credit Agreement and Waiver, effective as of March 1, 2006, and the Second Amendment to Credit Agreement, effective as of August 1, 2006, and the Third Amendment to Credit Agreement, effective as of March 8, 2007.

“Credit Facility” or “Credit Facilities” means, one or more debt facilities (including, without limitation, the Credit Agreement) or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, or letters of credit, in each case, as amended, extended, renewed, restated, supplemented, Refinanced, replaced or otherwise modified (in whole or in part, and without limitation as to amount, terms, conditions, covenants and other provisions, or lenders or holders) from time to time.

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

“Default” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

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“Definitive Note” means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A-1 hereto except that such Note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

“Depository” means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depository with respect to the Notes, and any and all successors thereto appointed as depository hereunder and having become such pursuant to the applicable provision of this Indenture.

“Designated Senior Debt” means (i) any Obligation outstanding under the Credit Agreement and Floor Plan Facilities; and (ii) after payment in full of all Obligations under the Credit Agreement and Floor Plan Facilities, any other Senior Debt permitted under this Indenture the principal

amount of which is \$25.0 million or more and that has been designated by the Company as “Designated Senior Debt.”

“Disqualified Stock” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder of the Capital Stock), or upon the happening of any event (other than any event solely within the control of the issuer thereof), matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.07 hereof.

“Domestic Subsidiary” means any Restricted Subsidiary of the Company that was formed under the laws of the United States or any state of the United States or the District of Columbia.

“Equity Interests” means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

“Equity Offering” means any primary offering of common stock of the Company; *provided* that, if such primary offering is not a public offering, it shall not include the portion of such offering made to an Affiliate of the Company.

“Euroclear” means Euroclear Bank.

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

“Exchange Notes” means the Notes issued in the Exchange Offer pursuant to Section 2.06(f) hereof.

“Exchange Offer” has the meaning set forth in the Registration Rights Agreement.

“Exchange Offer Registration Statement” has the meaning set forth in the Registration Rights Agreement.

“Existing Indebtedness” means Indebtedness of the Company and its Restricted Subsidiaries (other than Indebtedness under the Credit Agreement and Floor Plan Facilities) in existence on the date of this Indenture (including the Company’s 3.00% Senior Subordinated Convertible Notes due 2012), until such amounts are repaid.

“Existing Senior Subordinated Indentures” mean (i) that certain Indenture, dated as of June 5, 2002, governing the Company’s 9% Senior Subordinated Notes due 2012, as amended by that certain First Supplemental Indenture, dated as of March 19, 2003, that certain Second Supplemental Indenture, dated as of December 23, 2003, that certain Third Supplemental Indenture, dated as of December 7, 2004, that certain Fourth Supplemental Indenture, dated as of September 30, 2005, and that certain Fifth Supplemental Indenture, dated as of March 8, 2007 (ii) that certain Indenture, dated as of December 23, 2003, governing the Company’s 8% Senior Subordinated Notes due 2014, as amended by that certain First Supplemental Indenture, dated as of January 21, 2004, that certain Second Supplemental Indenture, dated as of December 23, 2003, that certain Third Supplemental Indenture, dated as of September 30, 2005, and that certain Fourth Supplemental Indenture, dated as of March 15, 2007 and (iii) that certain Indenture, dated as of March 16, 2007, governing the Company’s 3.00% Senior Subordinated Convertible Notes due 2012, as amended or supplemented.

“Existing Senior Subordinated Notes” means, as of any time of determination, notes outstanding at such time of determination issued by the Company under the Existing Senior Subordinated Indentures.

“Existing Senior Subordinated Notes Guarantees” means, as of any time of determination, guarantees outstanding at such time of determination entered into by Subsidiaries of the Company to guarantee the Company’s obligations under the Existing Senior Subordinated Indentures.

“Fixed Charges” means, with respect to any specified Person and its Restricted Subsidiaries for any period, the sum, without duplication, of: (i) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Debt, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers’ acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations (but excluding interest expense attributable to Indebtedness incurred under Floor Plan Facilities); *plus* (ii) the consolidated interest of such Person and its Restricted Subsidiaries that was capitalized during such period; *plus* (iii) any interest expense on Indebtedness of another Person that is Guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; *plus* (iv) the product of (A) all dividends, whether or not in cash, on any series of preferred stock of such Person or any of its Restricted

Subsidiaries, other than dividends on Equity Interests payable solely in Equity Interests of the Company (other than Disqualified Stock) or the applicable Restricted Subsidiary to the Company or a Restricted Subsidiary of the Company, *times* (B) a fraction, the numerator of which is one and the denominator of which is one minus the effective combined federal, state and local tax rate of such Person for such period as estimated by the chief financial officer of such Person in good faith, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP.

“Fixed Charge Coverage Ratio” means with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person and its Restricted Subsidiaries for such period to the Fixed Charges of such Person and its Restricted Subsidiaries for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases or redeems any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “Calculation Date”), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom as if the same had occurred at the beginning of the applicable four-quarter reference period. In addition, for purposes of calculating the Fixed Charge Coverage Ratio: (i) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations and including any related financing transactions, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be given pro forma effect as if they had occurred on the first day of the four-quarter reference period and Consolidated Cash Flow for such reference period will be calculated on a pro forma basis in accordance with Regulation S-X under the Securities Act, but without giving effect to clause (iii) of the proviso set forth in the definition of Consolidated Net Income; (ii) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, will be excluded; and (iii) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date. For purposes of this definition, whenever pro forma effect is to be given to an acquisition of assets, the amount of income or earnings relating thereto and the amount of Fixed Charges associated with any Indebtedness incurred in connection therewith, the pro forma calculations shall be determined in good faith by the chief financial officer of the Company. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Hedging Obligation applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months).

“Floor Plan Facility” means an agreement with Ford Motor Credit Company, General Motors Acceptance Corporation, DaimlerChrysler Services North America LLC or any other lending institution affiliated with a Manufacturer or any bank or asset-based lender under which the Company or its Restricted Subsidiaries incur Indebtedness, all of the net proceeds of which are used to purchase, finance or refinance vehicles and/or vehicle parts and supplies to be sold in the ordinary course of the business of the Company and its Restricted Subsidiaries and

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which may not be secured except by a Lien that does not extend to or cover any property other than property of the dealership(s) which use the proceeds of the Floor Plan Facility or other dealerships who have incurred Indebtedness from the same lender.

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

“Global Notes” means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A hereto issued in accordance with Section 2.01, 2.06(b)(iv), 2.06(d)(ii) or 2.06(f) hereof.

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

“Government Securities” means direct obligations (or certificates representing an ownership interest in such obligations) of the United States of America (including any agency or instrumentality thereof) for the payment of which the full faith and credit of the United States of America is pledged and which are not callable at the issuer’s option.

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

“Guarantor” means any Subsidiary of the Company that guarantees the Notes in accordance with the provisions of this Indenture.

“Hedging Obligations” means, with respect to any specified Person, the obligations of such Person under (i) interest rate swap agreements, interest rate cap agreements and interest rate collar agreements; and (ii) other agreements or arrangements of a similar character designed to protect such Person against fluctuations in interest rates.

“Holder” means a Person in whose name a Note is registered on the Registrar’s books.

“Indebtedness” means, with respect to any specified Person, any indebtedness of such Person, whether or not contingent: (i) in respect of borrowed money; (ii) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof); (iii) in respect of banker’s acceptances; (iv) representing Capital Lease Obligations or Attributable Debt in respect of sale and leaseback transactions; (v) representing the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable; or (vi) representing any Hedging Obligations, if and to the extent any of the preceding items (other than letters of credit, Attributable Debt and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term “Indebtedness” includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not

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such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person. The amount of any Indebtedness outstanding as of any date will be: (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount; or (2) the principal amount of the Indebtedness. In addition, for the purpose of avoiding duplication in calculating the outstanding principal amount of Indebtedness for purposes of Section 4.09 hereof, Indebtedness arising solely by reason of the existence of a Lien to secure other Indebtedness permitted to be incurred under Section 4.09 hereof will not be considered incremental Indebtedness. Indebtedness shall not include the obligations of any Person (A) resulting from the endorsement of negotiable instruments for collection in the ordinary course of business and (B) under stand-by letters of credit to the extent collateralized by cash or Cash Equivalents.

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

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

“Initial Notes” means the first \$150,000,000 aggregate principal amount of Notes issued under this Indenture on the date hereof.

“Initial Purchasers” means Goldman, Sachs & Co. and Deutsche Bank Securities Inc.

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

“Investments” means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Company or any Restricted Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of the Company, the Company 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 Equity Interests of such Subsidiary not sold or disposed of in an amount determined as provided in the final paragraph of Section 4.07 hereof. The acquisition by the Company or any Restricted Subsidiary of the Company of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Restricted Subsidiary in such third Person in an amount equal to the fair market value of the Investment held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of Section 4.07 hereof. Except as otherwise provided for herein, the amount of an Investment shall be its fair value at the time the Investment is made and without giving effect to subsequent changes in value.

“Issue Date” means March 26, 2007.

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“Legal Holiday” means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period.

“Letter of Transmittal” means the letter of transmittal to be prepared by the Company and sent to all Holders of the Notes for use by such Holders in connection with the Exchange Offer.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of an agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

“Manufacturer” means a vehicle manufacturer which is a party to a dealership or national framework franchise agreement with the Company or a Restricted Subsidiary of the Company.

“Net Income” means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however: (i) any gain (or loss), together with any related provision for taxes on such gain (or loss), realized in connection with: (A) any Asset Sale; or (B) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries; and (ii) any extraordinary gain (or loss), together with any related provision for taxes on such extraordinary gain (or loss).

“Net Proceeds” means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale, but only as and when received), in each case net of (i) the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, recording fees, title transfer fees, appraiser fees, cost of preparation of assets for sale, and any relocation expenses incurred as a result of the Asset Sale, (ii) taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, (iii) amounts required to be applied to the repayment of Indebtedness secured by a Lien on the asset or assets that were the subject of such Asset Sale, (iv) all pro rata distributions and other pro rata payments required to be made to minority interest holders in Restricted Subsidiaries of the Company or joint ventures as a result of such Asset Sale, and (v) any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

“Non-Recourse Debt” means Indebtedness: (i) as to which neither the Company nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise or (c) constitutes the lender; (ii) no default with

respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness (other than the notes) of the Company or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its stated maturity; and (iii) as to which the lenders have been notified in writing (which may be by the terms of the instrument evidencing such Indebtedness) that they will not have any recourse to the stock (other than the stock of an Unrestricted Subsidiary pledged by the Company or any of its Restricted Subsidiaries) or assets of the Company or any of its Restricted Subsidiaries.

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

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

“Obligations” means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

“Offering” means the offering of the Notes by the Company.

“Officer” means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of such Person.

“Officers’ Certificate” means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Company, that meets the requirements of Section 13.05 hereof.

“Opinion of Counsel” means an opinion from legal counsel that meets the requirements of Section 13.05 hereof. The counsel may be an employee of or counsel to the Company or any Subsidiary of the Company.

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

“Permitted Business” means any business that derives a majority of its revenues from the business engaged in by the Company and its Restricted Subsidiaries on the date of original issuance of the Notes and/or activities that are reasonably similar, ancillary, incidental, complementary or related to, or a reasonable extension, development or expansion of, the businesses in which the Company and its Restricted Subsidiaries are engaged on the date of original issuance of the Notes.

“Permitted Investments” means (i) any Investment in the Company or in a Restricted Subsidiary of the Company; (ii) any Investment in cash or Cash Equivalents; (iii) any Investment by the Company or any Restricted Subsidiary of the Company in a Person, if as a result of such Investment: (A) such Person becomes a Restricted Subsidiary of the Company; or (B) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company; (iv) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.10 hereof; (v) any Investment to the extent made in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company; (vi) Hedging Obligations; (vii) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers’ compensation, performance and other similar deposits; (viii) transactions with officers, directors and employees of the Company or any of its Restricted Subsidiaries entered into in the ordinary course of business (including compensation, employee benefit or indemnity arrangements with any such officer, director or employee) and consistent with past business practices; (ix) any Investment consisting of a guarantee permitted under Section 4.09 hereof; (x) Investments consisting of non-cash consideration received in the form of securities, notes or similar obligations in connection with dispositions of obsolete assets or assets damaged in the ordinary course of business and permitted pursuant to this Indenture; (xi) advances, loans or extensions of credit to suppliers in the ordinary course of business by the Company or any of its Restricted Subsidiaries; (xii) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business; (xiii) loans and advances to employees made in the ordinary course of business not to exceed \$2.5 million in the aggregate at any time outstanding; (xiv) payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business; (xv) Investments in any Person to the extent such Investment existed on date of this Indenture and any Investment that replaces, refinances or refunds such an Investment, *provided* that the new Investment is in an amount that does not exceed that amount replaced, refinanced or refunded and is made in the same Person as the Investment replaced, refinanced or refunded; (xvi) trade receivables and prepaid expenses, in each case arising in the ordinary course of business; *provided* that such receivables and prepaid expenses would be recorded as assets in accordance with GAAP; and (xvii) other Investments in any Person having an aggregate fair market value, when taken together with all other Investments made pursuant to this clause (xvii) since the date of this Indenture not to exceed \$15.0 million.

“Permitted Junior Securities” means (i) Equity Interests in the Company or any Guarantor; or (ii) debt securities that are subordinated to all Senior Debt (and any debt securities issued in exchange for Senior Debt) to substantially the same extent as, or to a greater extent than, the Notes and the Subsidiary Guarantees are subordinated to Senior Debt under this Indenture.

“Permitted Liens” means (i) Liens of the Company or any of its Restricted Subsidiaries securing Senior Debt that was permitted by the terms of this Indenture to be incurred; (ii) Liens upon any property or assets of the Company or any of its Restricted Subsidiaries, now owned or hereafter acquired, which secures any Indebtedness that ranks *pari passu* with or subordinate to the Notes; *provided* that (A) if such Lien secures Indebtedness which is

*pari passu* with the Notes, the Notes are secured on an equal and ratable basis with the Indebtedness so secured until such time as such Indebtedness is no longer secured by a Lien, or

(B) if such Lien secures Indebtedness which is subordinated to the Notes, any such Lien shall be subordinated to a Lien granted to the holders of the Notes in the same collateral as that securing such Lien to the same extent as such subordinated Indebtedness is subordinated to the Notes; (iii) Liens in favor of the Company or any of its Restricted Subsidiaries; (iv) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Company or any Subsidiary thereof; *provided* that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Company or such Subsidiary; (v) Liens on property existing at the time of acquisition of the property by the Company or any Subsidiary of the Company, *provided* that such Liens were in existence prior to the contemplation of such acquisition; (vi) Liens to secure the performance of statutory obligations, surety or appeal bonds, performance bonds or other obligations of a like nature incurred in the ordinary course of business; (vii) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by clause (v) of the definition of Permitted Debt; (viii) Liens existing on the date of this Indenture; (ix) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded, *provided* that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefore; and (x) Liens incurred in the ordinary course of business of the Company or any Restricted Subsidiary of the Company with respect to obligations that do not exceed \$10.0 million at any one time outstanding.

“Permitted Refinancing Indebtedness” means any Indebtedness of the Company or any of its Restricted Subsidiaries issued to Refinance other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness); *provided* that: (i) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness being Refinanced (plus all accrued interest on the Indebtedness and the amount of all expenses and premiums incurred in connection therewith); (ii) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being Refinanced; (iii) if the Indebtedness being Refinanced is subordinated in right of payment to the Notes, such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and is subordinated in right of payment to, the notes on terms at least as favorable to the Holders of Notes as those contained in the documentation governing the Indebtedness being Refinanced; and (iv) such Indebtedness is incurred either by the Company or by the Restricted Subsidiary who is the obligor on the Indebtedness being Refinanced.

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

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

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

“Refinance” means, in respect of any Indebtedness, to refinance, extend, renew, refund, repay, prepay, redeem, defease or retire, or to issue other Indebtedness in exchange or

replacement for, such Indebtedness. “Refinanced” and “Refinancing” shall have correlative meanings.

“Registration Default” has the meaning provided in the Registration Rights Agreement.

“Registration Default Period” has the meaning provided in the Registration Rights Agreement.

“Registration Rights Agreement” means the Exchange and Registration Rights Agreement, dated as of March 26, 2007, by and among the Company and the other parties named on the signature pages thereof, as such agreement may be amended, modified or supplemented from time to time and, with respect to any Additional Notes, one or more registration rights agreements between the Company and the other parties thereto, as such agreement(s) may be amended, modified or supplemented from time to time, relating to rights, if any, given by the Company to the purchasers of Additional Notes to register such Additional Notes under the Securities Act.

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

“Regulation S Global Note” means a global Note bearing the Private Placement Legend and deposited with or on behalf of the Depositary and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903 of Regulation S.

“Regulation S Permanent Global Note” means a permanent global Note in the form of Exhibit A2 hereto bearing the Global Note Legend and Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note upon expiration of the Restricted Period.

“Regulation S Temporary Global Note” means a temporary global Note in the form of Exhibit A2 hereto bearing the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903 of Regulation S.

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

“Replacement Assets” means (x) properties and assets (other than cash or any Capital Stock or other security) that will be used in a Permitted Business of the Company and its Restricted Subsidiaries or (y) Capital Stock of any Person that will become on the date of acquisition thereof a Restricted Subsidiary as a result of such Acquisition and that is involved principally in Permitted Businesses.

“Representative” means the indenture trustee or other trustee, agent or representative for any Senior Debt.

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“Responsible Officer,” when used with respect to the Trustee, means any officer within the Corporate Trust Administration group of the Trustee (or any successor group of the Trustee) including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Restricted Definitive Note” means a Definitive Note bearing the Private Placement Legend.

“Restricted Global Note” means a Global Note bearing the Private Placement Legend.

“Restricted Investment” means an Investment other than a Permitted Investment.

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

“Restricted Subsidiary” of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

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

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

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

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

“SEC” means the Securities and Exchange Commission.

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

“Senior Debt” means: (i) all Indebtedness of the Company or any Guarantor outstanding under Credit Facilities, and all Hedging Obligations with respect thereto, and under Floor Plan Facilities; (ii) any other Indebtedness of the Company or any Guarantor permitted to be incurred under the terms of this Indenture; and (iii) all Obligations with respect to the items listed in the preceding clauses (i) and (ii); unless in the case of clauses (i) and (ii), the instrument under which such Indebtedness is incurred expressly provides that it is on a parity with or subordinated in right of payment to the Notes or any Subsidiary Guarantee, as the case may be.

Notwithstanding anything to the contrary in the preceding paragraph, Senior Debt will not include: (a) any liability for federal, state, local or other taxes owed or owing by the Company; (b) any intercompany Indebtedness of the Company or any of its Restricted Subsidiaries owing to the Company or any of its Affiliates; (c) any trade payables; or (d) the portion of any Indebtedness that is incurred in violation of this Indenture.

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“Senior Subordinated Indebtedness” means, with respect to any Person, the Notes and the Existing Senior Subordinated Notes (in the case of the Company), the Subsidiary Guarantees and the Existing Senior Subordinated Notes Guarantees (in the case of a Guarantor), and any other Indebtedness of such Person that specifically provides that such Indebtedness is to rank *pari passu* with the Notes, the Existing Senior Subordinated Notes or such Subsidiary Guarantee or Existing Senior Subordinated Notes Guarantee, as the case may be, in right of payment and is not subordinated by its terms in right of payment to any Indebtedness or other obligation of such Person which is not Senior Debt of such Person.

“Shelf Registration Statement” means the Shelf Registration Statement as defined in the Registration Rights Agreement.

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

“Special Interest” means special interest payable to Holders of Notes following the occurrence of a Registration Default in an amount equal to \$.05 per week per \$1,000 principal amount of Notes, and in an amount increasing by an additional \$.05 per week per \$1,000 principal amount of Notes with respect to each subsequent 90 days of the Registration Default Period until all Registration Defaults have been cured, up to a maximum amount of Special Interest for all Registration Defaults of \$.50 per week per \$1,000 principal amount of Notes as described under Section 2 of the Registration Rights Agreement.

“Stated Maturity” means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, but excluding any provision providing for any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

“Subsidiary” means, with respect to any specified Person (i) any corporation, limited liability company, association or other business entity whether now existing or hereafter formed or acquired of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and (ii) any partnership whether now existing or hereafter formed or acquired (A) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (B) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

“Subsidiary Guarantee” means a Guarantee by a Guarantor of the Company’s obligations with respect to the Notes.

“TIA” means the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa-77bbb) as in effect on the date on which this Indenture is qualified under the TIA.

“Treasury Rate” means the yield to maturity at a time of computation of United States Treasury securities with a constant maturity (as compiled and published in the most recent

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Federal Reserve Statistical Release H.15 (519) which has become publicly available at least two business days prior to the Redemption Date (or, if such Statistical Release is no longer published, any publicly available source similar market data)) most nearly equal to the period from the Redemption Date to March 15, 2012, *provided, however*, that if the period from the Redemption Date to March 15, 2012 is not equal to the constant maturity of a United States Treasury security for which a weekly average yield is given, the Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury securities for which such yields are given, except that if the period from the Redemption Date to March 15, 2012 is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used.

“Trustee” means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

“Unrestricted Global Note” means a permanent Global Note substantially in the form of Exhibit A1 attached hereto that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, and that is deposited with or on behalf of and registered in the name of the Depository, representing a series of Notes that do not bear the Private Placement Legend.

“Unrestricted Definitive Note” means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

“Unrestricted Subsidiary” means any Subsidiary of the Company that is designated by the Board of Directors of the Company as an Unrestricted Subsidiary pursuant to a Board Resolution, and any Subsidiary of an Unrestricted Subsidiary, but only to the extent that such Subsidiary: (i) has no Indebtedness other than Non-Recourse Debt; (ii) is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary of the Company unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company; (iii) is a Person with respect to which neither the Company nor any of its Restricted Subsidiaries has any direct or indirect obligation (A) to subscribe for additional Equity Interests or (B) to maintain or preserve such Person’s financial condition or to cause such Person to achieve any specified levels of operating results; (iv) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of its Restricted Subsidiaries; and (v) has at least one director on its Board of Directors that is not a director or executive officer of the Company or any Restricted Subsidiary of the Company and has at least one executive officer that is not a director or executive officer of the Company or any Restricted Subsidiary of the Company. Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary will be evidenced to the Trustee by filing with the Trustee a certified copy of the Board Resolution giving effect to such designation and an officers’ certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07 hereof. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of

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such date under Section 4.09 hereof, the Company will be in default of such covenant. The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary, *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation will only be permitted if: (x) such Indebtedness is permitted under Section 4.09 hereof, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (y) no Default or Event of Default would occur or be in existence following such designation.

“U.S. Person” means a U.S. person as defined in Rule 902(k) under the Securities Act.

“Voting Stock” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (A) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (B) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (ii) the then outstanding principal amount of such Indebtedness.

<b>Term</b>	<b>Defined in Section</b>
“Affiliate Transaction”	4.11
“Asset Sale Offer”	3.09, 4.10
“Asset Sale Offer Price”	4.10
“Authentication Order”	2.02
“Change of Control Offer”	4.15
“Change of Control Payment”	4.15
“Change of Control Payment Date”	4.15
“Covenant Defeasance”	8.03
“DTC”	2.03
“Event of Default”	6.01
“Excess Proceeds”	4.10
“incur”	4.09
“Legal Defeasance”	8.02
“Offer Amount”	3.09
“Offer Period”	3.09
“Paying Agent”	2.03
“Payment Default”	6.01
“Permitted Debt”	4.09
“Purchase Date”	3.09
“Redemption Date”	3.07
“Registrar”	2.03

<b>Term</b>	<b>Defined in Section</b>
“Restricted Payments”	4.07
“Successor Company”	5.01

This Indenture is subject to the mandatory provisions of the TIA, which are incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

“indenture securities” means the Notes;

“indenture security Holder” means a Holder of a Note;

“indenture to be qualified” means this Indenture;

“indenture trustee” or “institutional trustee” means the Trustee; and

“obligor” on the Notes and the Subsidiary Guarantees means the Company and the Guarantors, respectively, and any successor obligor upon the Notes and the Subsidiary Guarantees, respectively.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule under the TIA have the meanings so assigned to them.

Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(c) “or” is not exclusive;

(d) words in the singular include the plural, and in the plural include the singular;

(e) provisions apply to successive events and transactions; and

(f) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement of successor sections or rules adopted by the SEC from time to time.

ARTICLE 2  
THE NOTES

Section 2.01. Form and Dating.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The Notes shall be in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

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

(b) Global Notes. Notes issued in global form shall be substantially in the form of Exhibits A1 or A2 attached hereto (including the Global Note Legend thereon and the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A1 attached hereto (but without the Global Note Legend thereon and without the "Schedule of Exchanges of Interests in the Global Note" attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified therein and each shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof.

(c) Temporary Global Notes. Notes offered and sold in reliance on Regulation S shall be issued initially in the form of the Regulation S Temporary Global Note, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, at its New York office, as custodian for the Depositary, and registered in the name of the Depositary or the nominee of the Depositary for the accounts of designated agents holding on behalf of Euroclear or Clearstream Bank, duly executed by the Company and authenticated by the Trustee as hereinafter provided. The Restricted Period shall be terminated upon the receipt by the Trustee of (i) a written certificate from the Depositary, together with copies of certificates from Euroclear and Clearstream Bank certifying that they have received certification of non-United States beneficial ownership of 100% of the aggregate principal amount of the Regulation S Temporary Global Note (except to the extent of any beneficial owners thereof who acquired an interest therein during the Restricted Period pursuant to another exemption from registration under the Securities Act and who will take delivery of a beneficial ownership interest in a 144A Global Note bearing a Private Placement Legend, all as contemplated by Section 2.06(a)(ii) hereof), and (ii) an Officers' Certificate from the Company. Following the termination of the Restricted Period, beneficial interests in the Regulation S Temporary Global Note shall be exchanged for beneficial interests in Regulation S Permanent Global Notes pursuant to the Applicable Procedures. Simultaneously with the authentication of Regulation S Permanent Global

Notes, the Trustee shall cancel the Regulation S Temporary Global Note. The aggregate principal amount of the Regulation S Temporary Global Note and the Regulation S Permanent Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depositary or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

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

Section 2.02. Execution and Authentication.

An Officer shall sign the Notes for the Company by manual or facsimile signature.

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

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

On the Issue Date, the Trustee shall, upon a written order of the Company signed by an Officer (an "Authentication Order"), authenticate Notes for original issue up to \$150,000,000 in aggregate principal amount and, upon delivery of any Authentication Order at any time and from time to time thereafter, the Trustee shall authenticate Notes for original issue in an aggregate principal amount specified in such Authentication Order.

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

Section 2.03. Registrar and Paying Agent.

The Company shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange ("Registrar") and an office or agency where Notes may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar

and the term “Paying Agent” includes any additional paying agent. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company shall promptly notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

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The Company initially appoints The Depository Trust Company (“DTC”) to act as Depository with respect to the Global Notes.

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

Section 2.04. Paying Agent to Hold Money in Trust.

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

Section 2.05. Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee in writing at least seven Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of Notes and the Company shall otherwise comply with TIA § 312(a).

Section 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. All Global Notes will be exchanged by the Company for Definitive Notes if (i) the Company delivers to the Trustee notice from the Depository that it is unwilling or unable to continue to act as Depository or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depository is not appointed by the Company within 120 days after the date of such notice from the Depository or (ii) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee; *provided* that in no event shall the Regulation S Temporary Global Note be exchanged by the Company for Definitive Notes prior to the expiration of the Restricted Period. Upon the occurrence of either of the preceding events in (i) or (ii) above, Definitive Notes shall be issued in such names as the Depository shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu

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of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (f) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depository, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to the restrictions set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

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

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to cause to be issued a Definitive Note in an amount equal to the beneficial



interest to be transferred or exchanged and (2) instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above; *provided* that in no event shall Definitive Notes be issued upon the transfer or exchange of beneficial interests in the Regulation S Temporary Global Note prior to the expiration of the Restricted Period. Upon consummation of an Exchange Offer by the Company in accordance with Section 2.06(f) hereof, the requirements of this Section 2.06(b)(ii) shall be deemed to have been satisfied upon receipt by the Registrar of the instructions contained in the Letter of Transmittal delivered by the Holder of such beneficial interests in the Restricted Global Notes. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise

applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h) hereof.

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

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

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

(C) if the transferee is an Institutional Accredited Investor who will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications and certificates and Opinion of Counsel required by item (3) thereof, if applicable.

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

(A) such exchange is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the holder of the beneficial interest to be exchanged certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

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

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

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

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

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

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

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

- (A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;
- (B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;
- (C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904

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under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

- (D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;
- (E) if such beneficial interest is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;
- (F) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or
- (G) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

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

(ii) Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes. Notwithstanding Sections 2.06(c)(i)(A) and (C) hereof, a beneficial interest in the Regulation S Temporary Global Note may not be exchanged for a Definitive Note or transferred to a Person who takes delivery thereof in the form of a Definitive Note prior to the expiration of the Restricted Period, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(iii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such

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beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if:

- (A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the holder of such beneficial interest, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;
- (B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;
- (C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or
- (D) the Registrar receives the following:
  - (1) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Definitive Note that does not bear the Private Placement Legend, a certificate from such holder in the form

of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(2) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a Definitive Note that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

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

(iv) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iv) shall be registered

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in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iv) shall not bear the Private Placement Legend.

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

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

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

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

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

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

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

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

(G) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a

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certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the appropriate Restricted Global Note, in the case of clause (B) above, the 144A Global Note, in the case of clause (C) above, the Regulation S Global Note, and in all other cases, the 144A Global Note.

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

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

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

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

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

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

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

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

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

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

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

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

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

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

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of

Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) any such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) any such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

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

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

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

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

(f) Exchange Offer. Upon the occurrence of the Exchange Offer in accordance with the Registration Rights Agreement, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate (i) one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of the beneficial interests in the Restricted Global Notes tendered for acceptance by Persons that

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certify in the applicable Letters of Transmittal that (x) they are not broker-dealers, (y) they are not participating in a distribution of the Exchange Notes and (z) they are not affiliates (as defined in Rule 144) of the Company, and accepted for exchange in the Exchange Offer and (ii) Definitive Notes in an aggregate principal amount equal to the principal amount of the Restricted Definitive Notes accepted for exchange in the Exchange Offer. Concurrently with the issuance of such Notes, the Trustee shall cause the aggregate principal amount of the applicable Restricted Global Notes to be reduced accordingly, and the Company shall execute and the Trustee shall authenticate and deliver to the Persons designated by the Holders of Definitive Notes so accepted Definitive Notes in the appropriate principal amount.

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

(i) Private Placement Legend.

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

“THE NOTES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933 (THE “SECURITIES ACT”) AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) (1) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (4) TO AN INSTITUTIONAL ACCREDITED INVESTOR IN A TRANSACTION EXEMPT FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT OR (5) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.”

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

(ii) Global Note Legend. Each Global Note shall bear a legend in substantially the following form:

“THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY

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MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.07 OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY.”

(iii) Regulation S Temporary Global Note Legend. The Regulation S Temporary Global Note shall bear a legend in substantially the following form:

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

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

(i) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Company’s order or at the Registrar’s request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.09, 4.10, 4.15 and 9.05 hereof).

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

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

(v) The Company shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

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

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

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

(ix) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depositary Participants or Beneficial Owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

#### Section 2.07. Replacement Notes.

If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall authenticate, upon receipt of an Authentication Order, a replacement Security. If required by the Trustee or the Company, such Holder shall furnish an indemnity bond sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee, the Paying Agent, the Registrar and any co-registrar from any loss which any of them may suffer if a Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note.

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

Section 2.08. Outstanding Notes.

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note; however, Notes held by the Company or a Subsidiary of the Company shall not be deemed to be outstanding for purposes of Section 3.07(b) hereof.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Note is held by a bona fide purchaser.

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

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) segregates and holds in trust, in accordance with this Indenture, on a redemption date or maturity date money sufficient to pay all principal and interest payable on that date with respect to the Notes (or portions thereof) to be redeemed or maturing, as the case may be, and the Paying Agent is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture, then on and after that date such Notes (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

Section 2.09. Treasury Notes.

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

Section 2.10. Temporary Notes.

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

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

Section 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel and dispose of such Notes in its customary manner (subject to the record retention requirements of the Exchange Act) all Notes surrendered for registration of transfer, exchange, payment or cancellation and deliver a certificate of such disposal to the Company unless the Company directs the Trustee to deliver canceled Notes to the Company. Certification of the disposition of all canceled Notes shall be delivered to the Company. The Company may not issue new Notes to replace Notes that it has redeemed or paid or that have been delivered to the Trustee for cancellation.

Section 2.12. Defaulted Interest.

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

Section 2.13. CUSIP Numbers.

The Company in issuing the Notes may use "CUSIP" numbers (if then generally in use) and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee of any change in the CUSIP numbers.

The Company shall be entitled, subject to its compliance with Section 4.09, to issue Additional Notes under this Indenture which shall have identical terms as the Initial Notes issued on the Issue Date, other than with respect to the date of issuance and issue price. The Initial Notes issued on the Issue Date, any Additional Notes and all Exchange Notes or Private Exchange Notes issued in exchange therefor shall be treated as a single class for all purposes under this Indenture.

With respect to any Additional Notes, the Company shall set forth in a resolution of the Board of Directors and an Officers' Certificate, a copy of each which shall be delivered to the Trustee, the following information:

- (a) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture;
- (b) the issue price, the issue date and the CUSIP number of such Additional Notes; *provided* that no Additional Notes may be issued unless fungible with the Initial Notes for U.S. federal income tax purposes; and
- (c) whether such Additional Notes shall be transfer restricted notes and issued in the form of Initial Notes as set forth in Section 2.02 this Indenture or shall be issued in the form of Exchange Notes.

### ARTICLE 3 REDEMPTION AND PREPAYMENT

Section 3.01. Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 hereof, it shall furnish to the Trustee, at least 30 days but not more than 60 days before a redemption date, an Officers' Certificate setting forth (i) the clause of this Indenture pursuant to which the redemption shall occur, (ii) the redemption date, (iii) the principal amount of Notes to be redeemed and (iv) the redemption price.

Section 3.02. Selection of Notes to Be Redeemed.

If less than all of the Notes are to be redeemed or purchased in an offer to purchase at any time, the Trustee shall select the Notes to be redeemed or purchased among the Holders of the Notes in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed or, if the Notes are not so listed, on a pro rata basis, by lot or in accordance with any other method the Trustee deems fair and appropriate. In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected shall be in principal amounts of \$1,000 or whole multiples of \$1,000 in excess thereof; except that (i) if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000, shall be redeemed and (ii) if only a portion of the Notes of a Holder is to be redeemed, the unredeemed portion of the Notes of such Holder must be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption. The Trustee shall notify the Company promptly of the Notes or portions of Notes to be redeemed.

Section 3.03. Notice of Redemption.

Subject to the provisions of Section 3.09 hereof, at least 30 days but not more than 60 days before a redemption date (except that a notice of redemption may be mailed more than 60 days prior to the redemption date if the notice is issued in connection with Article 8 or Article 12 hereof), the Company shall mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at such Holder's registered address.

The notice shall identify the Notes to be redeemed, including applicable CUSIP numbers, and shall state:

- (a) the redemption date;
- (b) the redemption price;
- (c) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion shall be issued upon cancellation of the original Note;
- (d) the name and address of the Paying Agent;
- (e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;



(f) that, unless the Company defaults in making such redemption payment or the Paying Agent is prohibited from making such payment pursuant to the terms of this Indenture, interest on Notes called for redemption ceases to accrue on and after the redemption date;

(g) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and

(h) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's written request delivered at least 15 days prior to the date such notice is to be given (unless a shorter period shall be acceptable to the Trustee), the Trustee shall give the notice of redemption as prepared by the Company in the Company's name and at its expense.

Section 3.04. Effect of Notice of Redemption.

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price stated in the notice. A notice of redemption may not be conditional.

Section 3.05. Deposit of Redemption Price.

One Business Day prior to the redemption date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued interest on all Notes to be redeemed on that date. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of, and accrued interest on, all Notes to be redeemed.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption date, interest shall cease to accrue on the Notes or the portions of Notes called for redemption. If a Note is redeemed on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

Section 3.06. Notes Redeemed in Part.

Upon surrender of a Note that is redeemed in part, the Company shall issue and, upon the Company's written request, the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

Section 3.07. Optional Redemption.

(a) On and after March 15, 2012, the Company shall have the option to redeem all or a portion of the Notes, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and Special Interest thereon, if any, on the Notes redeemed, to the applicable redemption date, if redeemed during the twelve-month period beginning on March 15 of the years indicated below:

<u>Year</u>	<u>Percentage</u>
2012	103.813%
2013	102.542%
2014	101.271%
2015 and thereafter	100.000%

(b) Notwithstanding the provisions of clause (a) of this Section 3.07, at any time on or prior to March 15, 2010, the Company may on any one or more occasions redeem up to 35% of the aggregate principal amount of the Notes originally issued at a redemption price equal to 107.625% of the aggregate principal amount thereof, plus accrued and unpaid interest and Special Interest thereon, if any, to the redemption date with the net cash proceeds of one or more Equity Offerings *provided that*:

(i) at least 65% of the aggregate principal amount of the Notes originally issued remains outstanding immediately after the occurrence of such redemption (excluding Notes held by the Company or any of its Subsidiaries or Affiliates); and

(ii) the redemption occurs within 45 days of the date of the closing of such Equity Offering.

(c) At any time prior to March 15, 2012, all or part of the Notes may also be redeemed at the option of the Company, at a redemption price equal to 100% of the principal amount thereof plus the Applicable Premium as of, and accrued and unpaid interest and Special Interest thereon, if any, to the date of redemption (the "Redemption Date").

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

Section 3.08. Mandatory Redemption.

The Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

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

In the event that, pursuant to Section 4.10 hereof, the Company shall be required to commence an offer to all Holders (and to holders of the Existing Senior Subordinated Notes and to holders of other Senior Subordinated Indebtedness of the Company designated by the Company) to purchase Notes (and the Existing Senior Subordinated Notes and such other Senior Subordinated Indebtedness of the Company) (an “Asset Sale Offer”), it shall follow the procedures specified below.

The Company shall complete the Asset Sale Offer no earlier than 30 days and no later than 60 days after notice of the Asset Sale Offer is provided to the Holders or such later date as may be required by applicable law.

The Asset Sale Offer shall remain open for a period of 20 Business Days following its commencement, or longer to the extent that a longer period is required by applicable law (the “Offer Period”). No later than five Business Days after the termination of the Offer Period (the “Purchase Date”), the Company shall purchase the principal amount of Notes required to be purchased pursuant to Section 4.10 hereof (the “Offer Amount”) or, if less than the Offer Amount has been tendered, all Notes tendered in response to the Asset Sale Offer. Payment for any Notes so purchased shall be made in the same manner as interest payments are made.

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

Upon the commencement of an Asset Sale Offer, the Company shall send, by first class mail, a notice to the Trustee and each of the Holders, with a copy to the Trustee. The

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notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The Asset Sale Offer shall be made to all Holders. The notice, which shall govern the terms of the Asset Sale Offer, shall state:

- (a) that the Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 hereof and the length of time the Asset Sale Offer shall remain open;
- (b) the Offer Amount, the purchase price and the Purchase Date;
- (c) that any Note not tendered or accepted for payment shall continue to accrete or accrue interest;
- (d) that, unless the Company defaults in making such payment, any Note accepted for payment pursuant to the Asset Sale Offer shall cease to accrete or accrue interest after the Purchase Date;
- (e) that Holders electing to have a Note purchased pursuant to an Asset Sale Offer may elect to have Notes purchased in integral multiples of \$1,000 only; *provided that*, if only a portion of the Notes of any Holder is to be purchased, the unpurchased portion of the Notes of such Holder must be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof;
- (f) that Holders electing to have a Note purchased pursuant to any Asset Sale Offer shall be required to surrender the Note, with the form entitled “Option of Holder to Elect Purchase” on the reverse of the Note completed, or transfer by book-entry transfer, to the Company, a depository, if appointed by the Company, or a Paying Agent at the address specified in the notice at least three days before the Purchase Date;
- (g) that Holders shall be entitled to withdraw their election if the Company, the depository or the Paying Agent, as the case may be, receives, not later than the closing, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;
- (h) that, if the aggregate principal amount of Notes surrendered by Holders, holders of Existing Senior Subordinated Notes and holders of other Senior Subordinated Indebtedness tendered exceeds the Offer Amount, the Company shall select Notes, Existing Senior Subordinated Notes and such other Senior Subordinated Indebtedness to be purchased on a pro rata basis (with such adjustments as may be deemed appropriate by the Company so that (i) only Notes in principal amounts of \$1,000, or integral multiples of \$1,000 in excess thereof, shall be purchased and (ii) the unpurchased portion of the Notes of any Holder shall be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof); and
- (i) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer).

On or before the Purchase Date, the Company shall, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of Notes or portions

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thereof tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes tendered, and shall deliver to the Trustee an Officers’ Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.09. The Company, the Depository or the Paying Agent, as the case may be, shall promptly (but in any case not later than five days after the Purchase Date) mail

or deliver to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Note, and the Trustee, upon written request from the Company shall authenticate and mail or deliver such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company shall publicly announce the results of the Asset Sale Offer on the Purchase Date.

Other than as specifically provided in this Section 3.09, any purchase pursuant to this Section 3.09 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

#### ARTICLE 4 COVENANTS

##### Section 4.01. Payment of Notes.

The Company shall pay or cause to be paid the principal of, premium, if any, and interest on, the Notes on, the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, other than the Company or a Subsidiary thereof or an Affiliate of any thereof, holds as of 10:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due. The Company shall pay all Special Interest, if any, in the same manner on the dates and in the amounts set forth in the Registration Rights Agreement.

Interest on the Notes shall be computed on the basis of a 360 day year of twelve 30-day months.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to 1% per annum in excess of the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Special Interest (without regard to any applicable grace period) at the same rate to the extent lawful.

##### Section 4.02. Maintenance of Office or Agency.

The Company shall maintain in the Borough of Manhattan, the City of New York, an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with

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the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

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

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

##### Section 4.03. Reports.

(a) Whether or not required by the rules and regulations of the SEC, so long as any Notes are outstanding, the Company shall furnish to the Holders (i) all quarterly and annual financial information that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K if the Company were required to file such forms, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report on the annual financial statements by the Company's certified independent accountants and (ii) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports, in each case, within the time periods specified in the SEC's rules and regulations. In addition, after the Shelf Registration Statement becomes effective, whether or not required by the SEC, the Company shall file a copy of all the information and reports referred to in clauses (i) and (ii) hereof with the SEC for public availability within the time periods specified in the SEC's rules and regulations (unless the SEC will not accept such a filing) and make such information available to securities analysts and prospective investors upon request. The Company shall at all times comply with TIA § 314(a).

(b) For so long as any Notes remain outstanding, the Company and the Guarantors shall furnish to the Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(c) If the Company has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by clause (a) of this Section 4.03 shall include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

(d) Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein,

including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

Section 4.04. Compliance Certificate.

(a) The Company and each Guarantor (to the extent that such Guarantor is so required under the TIA) shall deliver to the Trustee, within 90 days after the end of each fiscal year, an Officers' Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto.

(b) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, forthwith upon any Officer becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.05. Payment of Taxes and Other Claims.

The Company shall pay, and shall cause each of its Restricted Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment would not reasonably be expected to be materially adverse to the interests of the Holders of the Notes.

Section 4.06. Stay, Extension and Usury Laws.

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

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Section 4.07. Restricted Payments.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly: (i) declare or pay any dividend on, or make any other payment or distribution on account of, the Company's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) or to the direct or indirect holders of the Company's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in (A) Equity Interests (other than Disqualified Stock) of the Company or (B) to the Company or a Restricted Subsidiary of the Company); (ii) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Company) any Equity Interests of the Company or any direct or indirect parent of the Company (other than such Equity Interests owned by the Company or any of its Restricted Subsidiaries); (iii) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness that is subordinated to the Notes or the Subsidiary Guarantees, except a payment of interest or principal at the Stated Maturity thereof; or (iv) make any Restricted Investment (all such payments and other actions set forth in clauses (i) through (iv) above being collectively referred to as "Restricted Payments"), unless, at the time of and after giving effect to such Restricted Payment:

(a) no Default shall have occurred and be continuing or would occur as a consequence of such Restricted Payment; and

(b) the Company would, after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 4.09 hereof, and

(c) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries after December 23, 2003 (excluding Restricted Payments permitted by clauses (ii), (iii) and (iv) of the next succeeding paragraph), is less than the sum, without duplication, of: (i) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from October 1, 2003 up to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit), plus (ii) 100% of the aggregate net cash proceeds received by the Company after December 23, 2003 as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Company (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Company that have been converted into or exchanged for such Equity Interests (other than Equity Interests, Disqualified Stock or debt securities sold to a Subsidiary of the Company), plus (iii) to the extent that any Restricted Investment that was made after December 23, 2003 has been or is sold for cash or otherwise liquidated or repaid, purchased or redeemed for cash, the lesser of (A) such cash (less the cost of disposition, if any) and (B) the amount of such Restricted Investment, plus (iv) to the extent that any Unrestricted Subsidiary of the Company has been or is redesignated as a Restricted Subsidiary after December 23, 2003, the lesser of (A) the fair market value of the Company's Investment in such Subsidiary as of the date of such redesignation and (B) such fair market value as of the date on which such Subsidiary was originally designated as an Unrestricted Subsidiary.

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So long as no Default has occurred and is continuing or would be caused thereby (except in the case of clause (i) of this paragraph), the preceding provisions will not prohibit: (i) the payment of any dividend or distribution on, or redemption of, Equity Interests, within 60 days after the date of declaration or notice thereof, if at the date of declaration or the giving of such notice the payment would have complied with the provisions of this Indenture, (ii) the redemption, repurchase, retirement, defeasance or other acquisition of any subordinated Indebtedness of the Company or any Guarantor or of any Equity Interests of the Company, or the making of any Investment, in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Restricted Subsidiary of the Company) of, or capital contribution in respect of, Equity Interests of the Company (other than Disqualified Stock); *provided* that the amount of any such net cash proceeds that are utilized for any such redemption, repurchase, retirement, defeasance or other acquisition or any such Investment will be excluded from clause (c)(ii) of the preceding paragraph, (iii) the defeasance, redemption, repurchase or other acquisition of subordinated Indebtedness of the Company or any Guarantor with the net cash proceeds from an incurrence of Permitted Refinancing Indebtedness, (iv) the payment of any dividend or other payment or distribution by a Restricted Subsidiary of the Company to the holders of its Equity Interests on a pro rata basis, (v) repurchases of Equity Interests deemed to occur upon exercise of stock options if those Equity Interests represent all or a portion of the exercise price of those options, (vi) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company or any Restricted Subsidiary of the Company (in the event such Equity Interests are not owned by the Company or any of its Restricted Subsidiaries) in an amount not to exceed \$10.0 million in any fiscal year, (vii) the purchase by the Company of fractional shares arising out of stock dividends, splits or combinations or business combinations, or (viii) Restricted Payments not to exceed \$50.0 million under this clause (viii) in the aggregate, plus, to the extent Restricted Payments made pursuant to this clause (viii) are Investments made by the Company or any of its Restricted Subsidiaries in any Person and such Investment is sold for cash or otherwise liquidated or repaid, purchased or redeemed for cash, an amount equal to the lesser of (A) such cash (less the cost of disposition, if any) and (B) the amount of such Restricted Payment, *provided* that the amount of such cash will be excluded from clause (c)(iv) of the preceding paragraph.

The amount of all Restricted Payments (other than cash) will be the fair market value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The fair market value of any assets or securities that are required to be valued by this Section 4.07 will be determined by the Company (or, if such fair market value exceeds \$5 million, by the Board of Directors of the Company).

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

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any of its Restricted Subsidiaries to: (i) pay dividends or make any other distributions on its Capital Stock to the Company or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to the Company or any of its Restricted Subsidiaries; (ii) make any loans or advances to the Company or any of its Restricted Subsidiaries; or (iii) transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries.

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However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of: (1) any agreement in effect or entered into on the date of this Indenture, including agreements governing Existing Indebtedness, Credit Facilities and Floor Plan Facilities as in effect on the date of this Indenture and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of those agreements, *provided* that the amendments, modifications, restatements, renewals, increases, supplements, refundings, replacement or refinancings of such instrument are no more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the date of this Indenture; (2) this Indenture, the Notes and the Subsidiary Guarantees; (3) applicable law and any applicable rule, regulation or order; (4) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired, *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred; (5) customary non-assignment provisions in leases entered into in the ordinary course of business; (6) purchase money obligations that impose restrictions on that property of the nature described in clause (iii) of the preceding paragraph; *provided* that any such encumbrance or restriction is released to the extent the underlying Lien is released or the related Indebtedness is repaid; (7) any agreement for the sale or other disposition of assets, including, without limitation, customary restrictions with respect to a Subsidiary pursuant to an agreement that has been entered into for the sale or disposition of substantially all of Capital Stock or substantially all of the assets of that Subsidiary; (8) Permitted Refinancing Indebtedness, *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are no more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced; (9) Liens that limit the right of the debtor to dispose of the assets subject to such Liens; (10) covenants in a franchise or other agreement entered into in the ordinary course of business with a Manufacturer customary for franchise agreements in the vehicle retailing industry; (11) customary provisions in joint venture agreements, assets sale agreements, stock sale agreements and other similar agreements entered into in the ordinary course of business; and (12) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business.

Section 4.09. Incurrence of Indebtedness and Issuance of Preferred Stock.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, “incur”) any Indebtedness (including Acquired Debt), and the Company shall not issue any Disqualified Stock and will not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; *provided, however*, that the Company may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, and the Company’s Restricted Subsidiaries may incur Indebtedness (including Acquired Debt) or issue preferred stock, in each case, if the Fixed Charge Coverage Ratio for the Company’s most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or preferred stock is issued would have been at least 2.0 to 1, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the preferred stock or

Disqualified Stock had been issued, as the case may be, at the beginning of such four-quarter period.

The first paragraph of this Section 4.09 shall not prohibit the incurrence of any of the following items of Indebtedness (collectively, “Permitted Debt”): (i) the incurrence by the Company and any of its Restricted Subsidiaries of Indebtedness and letters of credit under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (i) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company and its Restricted Subsidiaries thereunder) not to exceed the greater of (A) \$550.0 million *less* the aggregate amount of all Net Proceeds of Asset Sales applied by the Company or any of its Restricted Subsidiaries since the date of this Indenture to repay term Indebtedness under a Credit Facility or to repay revolving credit Indebtedness and effect a corresponding commitment reduction thereunder, in each case, in satisfaction of the covenant contained in Section 4.10 of this Indenture or (B) 30% of the Company’s Consolidated Net Tangible Assets as of the date of such incurrence; (ii) the incurrence by the Company and its Restricted Subsidiaries of the Existing Indebtedness; (iii) the incurrence by the Company and its Restricted Subsidiaries of Indebtedness represented by the Notes and the related Subsidiary Guarantees to be issued, in the case of the Notes, on the date of this Indenture and the Exchange Notes and the related Subsidiary Guarantees to be issued pursuant to the Registration Rights Agreement; (iv) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness under Floor Plan Facilities; (v) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvement of property, plant or equipment used in the business of the Company or such Restricted Subsidiary, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (v), not to exceed \$30.0 million at any time outstanding; (vi) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance or replace Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under the first paragraph of this covenant or clauses (ii), (iii), (v) or (vi) of this paragraph; (vii) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and its Restricted Subsidiaries; *provided*, that (A) if the Company or any Guarantor is the obligor on such Indebtedness owing to a Restricted Subsidiary, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Notes, in the case of the Company, or the Subsidiary Guarantee, in the case of a Guarantor; and (B) (I) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (II) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary of the Company; will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (vii); (viii) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations in the ordinary course of business and not for speculative purposes; (ix) the guarantee by the Company or any of its Restricted Subsidiaries of Indebtedness of the Company or a Restricted Subsidiary of the Company that was permitted to be incurred by another provision of this Section 4.09; (x) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, *provided* that such Indebtedness is extinguished within five

Business Days of its incurrence; (xi) Obligations in respect of performance, bid and surety bonds and completion guarantees provided by the Company or any of its Restricted Subsidiaries in the ordinary course of business; and (xii) the incurrence by the Company or any of its Restricted Subsidiaries of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) which, when taken together with all other Indebtedness of the Company and its Restricted Subsidiaries outstanding on the date of such Incurrence and incurred pursuant to this clause (xii) does not exceed \$20.0 million.

For purposes of determining compliance with this Section 4.09, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (i) through (xii) of the preceding paragraph, or is entitled to be incurred pursuant to the first paragraph of this Section 4.09, the Company will be permitted to divide and classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.09. Indebtedness under Credit Facilities outstanding on the date on which Notes are first issued and authenticated under this Indenture will be deemed to have been incurred on such date in reliance on the exception provided by clause (i) of the definition of Permitted Debt.

Accrual of interest and dividends, accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, changes to amounts outstanding in respect of Hedging Obligations solely as a result of fluctuations in interest rates and the payment of dividends on Disqualified Stock or preferred stock in the form of additional shares of the same class of Disqualified Stock or preferred stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock or preferred stock for purpose of this Section 4.09.

#### Section 4.10. Asset Sales.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to consummate an Asset Sale unless: (i) the Company (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the fair market value of the assets or Equity Interests issued or sold or otherwise disposed of; (ii) the fair market value is determined by the Board of Directors of the Company; and (iii) at least 75% of the consideration received in the Asset Sale by the Company or such Restricted Subsidiary is in the form of cash or Cash Equivalents.

For purposes of this provision, each of the following will be deemed to be cash or Cash Equivalents: (a) any liabilities, as shown on the Company’s or such Restricted Subsidiary’s most recent balance sheet, of the Company or any such Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes or any Subsidiary Guarantee) that are assumed by the transferee of any such assets and the lender releases the Company or such Restricted Subsidiary from further liability; (b) any securities, notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee that are promptly converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents, to the extent of the cash or Cash Equivalents received in that conversion; and (c) Replacement Assets.

Within 365 days after the receipt of any Net Proceeds from an Asset Sale, the Company or the Restricted Subsidiary, as the case may be, may apply an amount equal to such Net Proceeds at its option:

- (1) to repay any Senior Debt of the Company or any of its Restricted Subsidiaries and, if the Senior Debt repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto;
- (2) to acquire all or substantially all of the Voting Stock of a Permitted Business;
- (3) to make a capital expenditure; or
- (4) to acquire other long-term assets that are used or useful in a Permitted Business.

Pending the final application of any Net Proceeds, the Company may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not otherwise prohibited under this Indenture.

If any portion of the Net Proceeds from Asset Sales is not applied or invested as provided in clauses (1) through (4) of the paragraph above, such amount will constitute “Excess Proceeds.” When the aggregate amount of Excess Proceeds exceeds \$10.0 million, the Company shall make an offer to holders of the Notes (and to holders of Existing Senior Subordinated Notes and to holders of other Senior Subordinated Indebtedness of the Company designated by the Company) to purchase Notes (and Existing Senior Subordinated Notes and such other Senior Subordinated Indebtedness of the Company) pursuant to and subject to the conditions contained in this Indenture (the “Asset Sale Offer”). The Company shall purchase Notes, Existing Senior Subordinated Notes and such other Senior Subordinated Indebtedness of the Company tendered pursuant to the Asset Sale Offer at a purchase price of 100% of their principal amount (or, in the event such other Senior Subordinated Indebtedness of the Company was issued with significant original issue discount, 100% of the accreted value thereof) without premium, plus accrued but unpaid interest (or, in respect of such other Senior Subordinated Indebtedness of the Company, such lesser price, if any, as may be provided for by the terms of such Senior Subordinated Indebtedness) in accordance with the procedures (including prorating in the event of oversubscription) set forth in this Indenture (the “Asset Sale Offer Price”). If the aggregate purchase price of the securities tendered exceeds the Net Proceeds allotted to their purchase, the Company will select the securities to be purchased on a pro rata basis but in round denominations, which in the case of the Notes will be integral multiples of \$1,000; *provided* that the unpurchased portion of the Notes of any Holder shall be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

The Company shall comply with the requirements of Section 14(e) of and Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or

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regulations conflict with the Asset Sale provisions of this Indenture, the Company shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Asset Sale provisions of this Indenture by virtue of such conflict.

#### Section 4.11. Transactions with Affiliates.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate (each, an “Affiliate Transaction”), unless: (a) the Affiliate Transaction is on terms that are not materially less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person; and (b) the Company delivers to the Trustee: (i) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$5.0 million, a resolution of the Board of Directors of the Company set forth in an Officers’ Certificate certifying that such Affiliate Transaction complies with this Section 4.11 and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors of the Company; and (ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$15.0 million, an opinion as to the fairness to the Holders of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing.

Notwithstanding the foregoing, the following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

- (1) any employment agreement entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business of the Company or such Restricted Subsidiary;
- (2) transactions between or among the Company and/or its Restricted Subsidiaries;
- (3) transactions with a Person that is an Affiliate of the Company solely because the Company owns an Equity Interest in, or controls, such Person;
- (4) payment of reasonable directors fees;
- (5) the issuance or sale of Equity Interests (other than Disqualified Stock) to Affiliates of the Company;
- (6) the pledge of Equity Interests of Unrestricted Subsidiaries to support the Indebtedness thereof; and
- (7) Restricted Payments that are permitted by the provisions of Section 4.07 of this Indenture.

Section 4.12. Limitation on Liens.

The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien of any kind securing Indebtedness or Attributable Debt on any asset now owned or hereafter acquired, except Permitted Liens.

Section 4.13. Designation of Restricted and Unrestricted Subsidiaries.

The Board of Directors of the Company may designate any Restricted Subsidiary of the Company to be an Unrestricted Subsidiary if no Default has occurred and is continuing at the time of such designation and if that designation would not cause a Default. If a Restricted Subsidiary of the Company is designated as an Unrestricted Subsidiary, the aggregate fair market value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary properly designated shall be deemed to be an Investment made as of the time of the designation and shall reduce the amount available for Restricted Payments under the first paragraph of Section 4.07 or Permitted Investments, as determined by the Company. That designation shall only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary of the Company otherwise meets the definition of an Unrestricted Subsidiary. In addition, no such designation may be made unless the proposed Unrestricted Subsidiary does not beneficially own any Capital Stock in any Restricted Subsidiary that is not simultaneously subject to designation as an Unrestricted Subsidiary. The Board of Directors of the Company may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary of the Company if the redesignation would not cause a Default.

Section 4.14. Corporate Existence.

Subject to Section 4.10 and Article 5 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its corporate existence, and the corporate, partnership or other existence of each of its Restricted Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Restricted Subsidiary and (ii) the rights (charter and statutory), licenses and franchises of the Company and its Restricted Subsidiaries; *provided* that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Restricted Subsidiaries, if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

Section 4.15. Offer to Repurchase Upon Change of Control.

(a) Upon the occurrence of a Change of Control, the Company shall make an offer (a “Change of Control Offer”) to each Holder to repurchase all or any part (equal to an integral multiple of \$1,000) of each Holder’s Notes at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Special Interest thereon, if any, to the date of purchase (the “Change of Control Payment”). Within 30 days following any Change of Control, the Company shall mail a notice to each Holder stating: (1) that the Change of Control Offer is being made pursuant to this Section 4.15 and that all Notes tendered will be accepted for payment; (2) the purchase price and the purchase date, which shall be no earlier than

30 days and no later than 60 days from the date such notice is mailed (the “Change of Control Payment Date”); (3) that any Note not promptly tendered will continue to accrue interest; (4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after the Change of Control Payment Date; (5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender the Notes, with the form entitled “Option of Holder to Elect Purchase” on the reverse of the Notes completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date; (6) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have the Notes purchased; and (7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof. The Company shall comply with the requirements of Section 14(e) of and Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with the repurchase of Notes in connection with a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture relating to a Change of Control Offer, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Indenture by virtue of such conflict.

(b) On the Change of Control Payment Date, the Company shall, to the extent lawful, (1) accept for payment all Notes or portions thereof properly tendered pursuant to the Change of Control Offer, (2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions thereof properly tendered and (3) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officers’ Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Company. The Paying Agent shall promptly mail to each Holder of Notes so tendered the Change of Control Payment for the Notes, and the Trustee shall promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered by such Holder, if any; *provided* that each such new Note shall be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof. Prior to complying with any of the provisions of this Section 4.15, but in any event within 90 days following a Change of Control, the Company will either repay all outstanding Senior Debt or obtain the requisite consents, if any, under all agreements governing outstanding Senior Debt to permit the repurchase of Notes required by this covenant. The Company shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(c) Notwithstanding anything to the contrary in this Section 4.15, the Company shall not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Company and purchases all Notes properly tendered and not withdrawn under such Change of Control Offer.



Section 4.16. Anti-Layering.

The Company shall not incur, create, issue, assume, guarantee or otherwise become liable for any Indebtedness that is subordinate or junior in right of payment to any Senior Debt of the Company and senior in any respect in right of payment to the Notes. No Guarantor shall incur, create, issue, assume, guarantee or otherwise become liable for any Indebtedness that is subordinate or junior in right of payment to the Senior Debt of such Guarantor and senior in any respect in right of payment to such Guarantor's Subsidiary Guarantee.

Section 4.17. Additional Subsidiary Guarantees.

The Company shall cause any Domestic Subsidiary of the Company which incurs, has outstanding or guarantees any Indebtedness to, simultaneously with such incurrence or guarantee (or, if such Domestic Subsidiary has outstanding or guarantees Indebtedness at the time of its creation or acquisition, at the time of such creation or acquisition), become a Guarantor and execute and deliver to the Trustee a supplemental indenture, in form and substance reasonably satisfactory to the Trustee, pursuant to which such Subsidiary will agree to guarantee the Company's obligations under the Notes; *provided, however*, that all Subsidiaries of the Company that have properly been designated as Unrestricted Subsidiary in accordance with this Indenture, for so long as they continue to constitute Unrestricted Subsidiaries, will not have to comply with the requirements of this Section 4.17.

Section 4.18. Payments for Consent.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of Notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to be paid and is paid to all Holders of the Notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

ARTICLE 5  
SUCCESSORS

Section 5.01. Merger, Consolidation, or Sale of Assets.

The Company shall not, directly or indirectly (1) consolidate or merge with or into another Person (whether or not the Company is the surviving corporation), or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole, in one or more related transactions to, another Person, unless (i) either (A) the Company is the surviving corporation or (B) the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, conveyance or other disposition shall have been made is a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia (any such Person, the "Successor Company"), (ii) the Successor Company assumes all the obligations of the Company under the Notes, this Indenture and the Registration Rights Agreement pursuant to agreements reasonably satisfactory to the Trustee and (iii) immediately after such transaction no Default exists, and (iv) the Company or the Successor Company shall, on the date of such transaction after giving pro forma effect thereto and any

related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 4.09 hereof. The foregoing clause (iv) shall not prohibit (A) a merger between the Company and any of its Restricted Subsidiaries; or (B) a merger between the Company and an Affiliate with no liabilities (other than *de minimis* liabilities), *provided* that such Affiliate is incorporated and the merger undertaken solely for the purpose of reincorporating the Company in another state of the United States, so long as, the amount of Indebtedness of the Company and its Restricted Subsidiaries is not increased thereby. In addition, the Company shall not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person. The provisions of this Section 5.01 shall not be applicable to a sale, assignment, transfer, conveyance or other disposition of assets between or among the Company and any of the Guarantors.

Section 5.02. Successor Company Substituted.

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of the Company in accordance with Section 5.01 hereof, the Successor Company shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall refer instead to the Successor Company and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; *provided* that the predecessor Company shall not be relieved from the obligation to pay the principal of and interest and Special Interest, if any, on the Notes except in the case of a sale, assignment, transfer, conveyance or other disposition of all of the Company's properties or assets that meets the requirements of Section 5.01 hereof.

ARTICLE 6  
DEFAULTS AND REMEDIES

Section 6.01. Events of Default.

An "Event of Default" occurs if:

(a) the Company defaults in the payment when due of interest on, or Special Interest, if any, with respect to, the Notes and such default continues for a period of 30 days, whether or not such payment shall be prohibited by Article 10 hereof;

(b) the Company defaults in the payment when due of principal of, or premium, if any, on, the Notes when the same becomes due and payable at maturity, upon redemption (including in connection with an offer to purchase) or otherwise, whether or not such payment shall be prohibited by Article 10 hereof;

(c) the Company fails to comply with any of the provisions of Section 5.01 hereof;

(d) the Company or any of its Restricted Subsidiaries fails to comply with any of the provisions of Section 4.07, 4.09, 4.10 or 4.15 hereof for a period of 30 days after

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receipt of notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class;

(e) the Company or any of its Restricted Subsidiaries fails to observe or perform any other covenant or other agreement in this Indenture for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class;

(f) a default occurs under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), whether such Indebtedness or guarantee now exists, or is created after the date of this Indenture, which default is caused by a failure to pay principal at its stated final maturity (after giving effect to any applicable grace period provided in such Indebtedness) (a "Payment Default") or results in the acceleration of such Indebtedness prior to its express maturity and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$15.0 million or more;

(g) a final judgment or final judgments for the payment of money are entered by a court or courts of competent jurisdiction against the Company or any of its Restricted Subsidiaries, and such judgment or judgments remain not paid, discharged or stayed for a period of 60 days, *provided* that the aggregate of all such not paid, discharged or stayed judgments exceeds \$15.0 million;

(h) except as permitted by this Indenture, any Subsidiary Guarantee is held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor, or any Person acting on behalf of any Guarantor, shall deny or disaffirm its obligations under such Guarantor's Subsidiary Guarantee.

(i) the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary or any Restricted Subsidiaries of the Company that taken together would constitute a Significant Subsidiary of the Company:

- (i) commences a voluntary case,
- (ii) consents to the entry of an order for relief against it in an involuntary case,
- (iii) consents to the appointment of a custodian of it or for all or substantially all of its property,
- (iv) makes a general assignment for the benefit of its creditors, or
- (v) generally is not paying its debts as they become due; or

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

(i) is for relief against the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary or any Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary of the Company in an involuntary case;

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

(iii) orders the liquidation of the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary or any Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary of the Company;

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

Section 6.02. Acceleration.

If any Event of Default (other than an Event of Default specified in clause (i) or (j) of Section 6.01 hereof with respect to the Company, any Restricted Subsidiary of the Company or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary) occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable

immediately. Upon any such declaration, the Notes shall become due and payable immediately. Upon any such declaration the Notes shall become due and payable immediately. Notwithstanding the foregoing, if an Event of Default specified in clause (i) or (j) of Section 6.01 hereof occurs with respect to the Company, any Restricted Subsidiary of the Company or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, all outstanding Notes shall be due and payable immediately without further action or notice. The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may on behalf of all of the Holders rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

If an Event of Default occurs by reason of any willful action (or inaction) taken (or not taken) by or on behalf of the Company with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Notes pursuant Section 3.07(a) or (c) hereof, as applicable, then, upon acceleration of the Notes, an equivalent premium shall also become and be immediately due and payable, to the extent permitted by law, anything in this Indenture or in the Notes to the contrary notwithstanding.

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Section 6.03. Other Remedies.

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

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

No right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.04. Waiver of Past Defaults.

Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal of, premium and Special Interest, if any, or interest on, the Notes including in connection with an offer to purchase (other than the non-payment of principal of or interest or Special Interest, if any, on the Notes that became due solely because of the acceleration of the Notes) (*provided* that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05. Control by Majority.

The holders of a majority in principal amount of the Notes then outstanding shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee, with respect to the Notes, *provided that*

- (i) such direction shall not be in conflict with any rule of law or with this Indenture, and
- (ii) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

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Section 6.06. Limitation on Suits.

A Holder of a Note may pursue a remedy with respect to this Indenture or the Notes only if:

- (a) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;
- (b) the Holders of at least 25% in principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;
- (c) such Holder of a Note or Holders of Notes offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;
- (d) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of indemnity; and

(e) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07. Rights of Holders of Notes to Receive Payment.

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

Section 6.08. Collection Suit by Trustee.

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

Section 6.09. Trustee May File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or

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deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10. Priorities.

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

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

Second: subject to the provisions of Article 10 hereof, to Holders of Notes for amounts due and unpaid on the Notes for principal, premium and Special Interest, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium and Special Interest, if any and interest, respectively; and

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

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

Section 6.11. Undertaking for Costs.

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

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ARTICLE 7  
TRUSTEE

Section 7.01. Duties of Trustee.

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

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

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

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, with respect to certificates or opinions specifically required by any provision hereof to be furnished to it hereunder, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein).

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

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

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

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

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

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

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

#### Section 7.02. Rights of Trustee.

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

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

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or gross negligence of any agent or attorney appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

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

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

(g) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(h) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(i) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

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

(k) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

Section 7.03. Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee.

In the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee or resign. Any Agent may do the same with like rights and duties. If the Trustee fails to eliminate such conflicting interest, obtain said permission or resign within the ten days after the conclusion of such 90-day period, the Trustee shall provide notice to the Holders of this effect, and any Holder that has been a *bona fide* Holder for at least six months prior to the delivery of such notice shall have the right to petition a court of competent jurisdiction to remove the Trustee and appoint a successor Trustee. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

Section 7.04. Trustee's Disclaimer.

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

Section 7.05. Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if it is actually known to a Responsible Officer of the Trustee, the Trustee shall mail to Holders of Notes a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, and premium, if any, or interest on, any Note, the

Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

Section 7.06. Reports by Trustee to Holders of the Notes.

Within 60 days after each May 15 beginning with the May 15 following the date of this Indenture, and for so long as Notes remain outstanding, the Trustee shall mail to the Holders of the Notes a brief report dated as of such reporting date that complies with TIA § 313(a) (but if no event described in TIA § 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with TIA § 313(b)(2). The Trustee shall also transmit by mail all reports as required by TIA § 313(c).

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Company and filed with the SEC and each stock exchange on which the Notes are listed in accordance with TIA § 313(d). The Company shall promptly notify the Trustee when the Notes are listed on any securities exchange or delisted therefrom.

Section 7.07. Compensation and Indemnity.

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

The Company and the Guarantors, jointly and severally, shall fully indemnify the Trustee against any and all losses, liabilities, claims, damages or expenses incurred by it, without negligence, willful misconduct or bad faith, arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this Section 7.07) and defending itself against any claim (whether asserted by the Company or any Holder or any other person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense has been determined to have been caused by its own negligence, willful misconduct or bad faith. The Trustee shall notify the Company promptly of any claim of which it has received notice for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee shall reasonably cooperate in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and

expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. The Company need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through its own negligence, willful misconduct or bad faith.

The obligations of the Company under this Section 7.07 shall survive the satisfaction and discharge of this Indenture.

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

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

The Trustee shall comply with the provisions of TIA § 313(b)(2) to the extent applicable.

Section 7.08. Replacement of Trustee.

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

The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

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

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

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

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

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

Section 7.09. Successor Trustee by Merger, etc.

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

Section 7.10. Eligibility; Disqualification.

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$50 million as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA § 310(a)(1) and (2). The Trustee is subject to TIA § 310(b).

Section 7.11. Preferential Collection of Claims Against Company.

The Trustee is subject to TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein.

## ARTICLE 8 LEGAL DEFEASANCE AND COVENANT DEFEASANCE

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

The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, at any time, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8. If the Company exercises its option under this Section 8.01 with respect to either Section 8.02 or 8.03, each Guarantor will be released from all of its obligations with respect to its Guarantee.

Section 8.02. Legal Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company shall, subject to the satisfaction of the conditions set forth in

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Section 8.04 hereof, be deemed to have been discharged from its obligations with respect to all outstanding Notes on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive solely from the trust fund described in Section 8.04 hereof, and as more fully set forth in such Section, payments in respect of the principal of premium or Special Interest, if any, and interest on such Notes when such payments are due, (b) the Company's obligations with respect to such Notes under Article 2 and Section 4.02 hereof, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's and the Guarantors' obligations in connection therewith and (d) this Article 8. Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03. Covenant Defeasance.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from its obligations under the covenants contained in Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.15, 4.16, 4.17 and 4.18 hereof and clause (iv) of Section 5.01 hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03 hereof, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Section 6.01(c) through 6.01(f) hereof shall not constitute Events of Default.

Section 8.04. Conditions to Legal or Covenant Defeasance.

The following shall be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance:

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(a) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in United States dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, premium and Special Interest, if any, and interest on the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the Notes are being defeased to maturity or to a particular redemption date;

(b) in the case of an election under Section 8.02 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that (A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (B) since the date of this Indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax



purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of an election under Section 8.03 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States confirming that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default shall have occurred and be continuing on the date of such deposit (other than a Default resulting from the incurrence of Indebtedness all or a portion of the proceeds of which will be used to defease the Notes pursuant to this Article 8 concurrently with such incurrence);

(e) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which the Company or any of its Restricted Subsidiaries is a party or by which the Company or any of its Restricted Subsidiaries is bound;

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

(g) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

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

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee,

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

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

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

Section 8.06. Repayment to Company.

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

Section 8.07. Reinstatement.

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

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subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

Section 9.01. Without Consent of Holders of Notes.

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

- (a) to cure any ambiguity, defect or inconsistency or to make a modification of a formal, minor or technical nature or to correct a manifest error;
- (b) to provide for uncertificated Notes in addition to or in place of certificated Notes or to alter the provisions of Article 2 hereof (including the related definitions) in a manner that does not materially adversely affect any Holder;
- (c) to provide for the assumption of the Company's or a Guarantor's obligations to the Holders of the Notes by a successor to the Company pursuant to Article 5 or hereof;
- (d) to add Guarantees with respect to the Notes or to secure the Notes;
- (e) to add to the covenants of the Company or any Guarantor for the benefit of the Holders of the Notes or surrender any right or power conferred upon the Company or any Guarantor;
- (f) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder of a Note;
- (g) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA;
- (h) to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee pursuant to the requirements hereof; or
- (i) to provide for the issuance of exchange or private exchange notes.

However, no amendment may be made to Article 10 of this Indenture or the conditions precedent to Legal Defeasance and Covenant Defeasance set forth in clause (e) of Section 8.04 hereof, in each case, that adversely affects the rights of any holder of Senior Debt of the Company or a Guarantor then outstanding unless the holders of such Senior Debt (or their representative) consent to such change.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon

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receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Company and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02. With Consent of Holders of Notes.

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture (including Section 3.09, 4.10 and 4.15 hereof), the Subsidiary Guarantees and the Notes with the consent of the Holders of at least a majority in principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including Additional Notes, if any) voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Without the consent of at least 75% in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, such Notes), no waiver or amendment to this Indenture may make any change in the provisions of Article 10 hereof that adversely affects the rights of any Holder of Notes. Section 2.08 hereof shall determine which Notes are considered to be "outstanding" for purposes of this Section 9.02.

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

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

After an amendment, supplement or waiver under this Section becomes effective, the Company shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver. Subject to Sections 6.04 and 6.07 hereof, the

Holders of a majority in aggregate principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class may waive compliance in a particular instance by the

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Company with any provision of this Indenture or the Notes. However, without the consent of each Holder affected, an amendment or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

- (a) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;
- (b) reduce the principal of or change the fixed maturity of any Note or alter or waive any of the provisions with respect to the redemption of the Notes (other than the provisions of Sections 3.09, 4.10 and 4.15 relating to the obligation of the Company to make an offer to repurchase Notes);
- (c) reduce the rate of or change the time for payment of interest, including default interest, on any Note;
- (d) waive a Default or Event of Default in the payment of principal of or interest or premium, or Special Interest, if any, on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes (including Additional Notes, if any) and a waiver of the Payment Default that resulted from such acceleration);
- (e) make any Note payable in money other than that stated in the Notes;
- (f) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, or interest or premium or Special Interest, if any, on the Notes;
- (g) waive a redemption payment with respect to any Note (other than pursuant to the provisions of Sections 3.09, 4.10 and 4.15);
- (h) release any Guarantor from any of its obligations under its Subsidiary Guarantee or this Indenture, except in accordance with the terms of this Indenture; or
- (i) make any change in the foregoing amendment and waiver provisions.

Section 9.03. Compliance with Trust Indenture Act.

Every amendment or supplement to this Indenture or the Notes shall be set forth in an amended or supplemental indenture that complies with the TIA as then in effect.

Section 9.04. Revocation and Effect of Consents.

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

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amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

Section 9.05. Notation on or Exchange of Notes.

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

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

Section 9.06. Trustee to Sign Amendments, etc.

The Trustee shall sign any amended or supplemental indenture authorized pursuant to this Article 9 if the amendment or supplement does not affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amendment or supplemental indenture until the Board of Directors approves it. In executing any amended or supplemental indenture, the Trustee shall be provided with and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 13.04 hereof, an Officers' Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture.

ARTICLE 10  
SUBORDINATION

Section 10.01. Agreement to Subordinate.

The Company agrees, and each Holder by accepting a Note agrees, that the Indebtedness evidenced by the Notes is subordinated in right of payment, to the extent and in the manner provided in this Article 10, to the prior payment in full in cash or Cash Equivalents of all Senior Debt (whether outstanding on the date hereof or hereafter created, incurred, assumed or guaranteed), and that the subordination is for the benefit of the holders of Senior Debt.

Section 10.02. Liquidation; Dissolution; Bankruptcy.

Upon any distribution to creditors of the Company in a liquidation or dissolution of the Company or in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Company or its property, in an assignment for the benefit of creditors or any marshaling of the Company's assets and liabilities:

(i) holders of Senior Debt shall be entitled to receive payment in full of all Obligations due in respect of such Senior Debt (including interest after the commencement of any such proceeding at the rate specified in the applicable Senior Debt) before Holders of the Notes shall be entitled to receive any payment with respect to the Notes (except that Holders may receive (A) Permitted Junior Securities and (B) payments and other distributions made from any defeasance trust created pursuant to Section 8.01 hereof); and

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(ii) until all Obligations with respect to Senior Debt (as provided in clause (i) above) are paid in full, any distribution to which Holders would be entitled but for this Article 10 shall be made to holders of Senior Debt (except that Holders of Notes may receive (A) Permitted Junior Securities and (B) payments and other distributions made from any defeasance trust created pursuant to Section 8.01 hereof), as their interests may appear.

Section 10.03. Default on Designated Senior Debt.

(a) The Company may not make any payment or distribution to the Trustee or any Holder in respect of Obligations with respect to the Notes and may not acquire from the Trustee or any Holder any Notes for cash or property (other than (A) Permitted Junior Securities and (B) payments and other distributions made from any defeasance trust created pursuant to Section 8.01 hereof) until all principal and other Obligations with respect to the Senior Debt have been paid in full if:

(i) a default in the payment of Designated Senior Debt occurs and is continuing beyond any applicable period of grace; or

(ii) a default, other than a payment default, on any series of Designated Senior Debt occurs and is continuing that then permits holders of the Designated Senior Debt to accelerate its maturity and the Trustee receives a notice of the default (a "Payment Blockage Notice") from the Company or the holders of any such Designated Senior Debt or their representative. If the Trustee receives any such Payment Blockage Notice, no subsequent Payment Blockage Notice shall be effective for purposes of this Section unless and until (A) at least 360 days shall have elapsed since the delivery of the immediately prior Payment Blockage Notice and (B) all scheduled payments of principal of, interest and premium and Special Interest, if any, on, the Notes that have come due have been paid in full in cash. No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the Trustee shall be, or be made, the basis for a subsequent Payment Blockage Notice unless such default shall have been cured or waived for a period of not less than 180 days.

(b) The Company shall resume payments on and distributions in respect of the Notes and may acquire them upon the earlier of:

(i) in the case of a default referred to in clause (i) of Section 10.03(a) hereof, the date upon which the default is cured or waived, or

(ii) in the case of a default referred to in clause (ii) of Section 10.03(a) hereof, upon the earlier of the date on which such non-payment default is cured or waived or 179 days pass after the date on which the applicable Payment Blockage Notice is received, unless the maturity of such Designated Senior Debt has been accelerated,

if this Article 10 otherwise permits the payment, distribution or acquisition at the time of such payment or acquisition.

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Section 10.04. Acceleration of Notes.

If payment of the Notes is accelerated because of an Event of Default, the Company shall promptly notify holders of Senior Debt of the acceleration.

Section 10.05. When Distribution Must Be Paid Over.

In the event that the Trustee or any Holder receives any payment of any Obligations with respect to the Notes at a time when the Trustee or such Holder, as applicable, has actual knowledge that such payment is prohibited by Section 10.03 hereof, such payment shall be held by the Trustee or such Holder, in trust for the benefit of, and shall be paid forthwith over and delivered, upon written request, to, the holders of Senior Debt as their interests may appear or their Representative under the indenture or other agreement (if any) pursuant to which Senior Debt may have been issued, as their respective interests may appear, for application to the payment of all Obligations with respect to Senior Debt remaining unpaid to the extent necessary to pay such Obligations in full in accordance with their terms, after giving effect to any concurrent payment or distribution to or for the holders of Senior Debt.

With respect to the holders of Senior Debt, the Trustee undertakes to perform only such obligations on the part of the Trustee as are specifically set forth in this Article 10, and no implied covenants or obligations with respect to the holders of Senior Debt shall be read into this Indenture against the Trustee. The Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Debt, and shall not be liable to any such holders if the Trustee shall pay over or distribute to or on behalf of Holders or the Company or any other Person money or assets to which any holders of Senior Debt shall be entitled by virtue of this Article 10.

Section 10.06. Notice by Company.

The Company shall promptly notify the Trustee and the Paying Agent of any facts known to the Company that would cause a payment of any Obligations with respect to the Notes to violate this Article 10, but failure to give such notice shall not affect the subordination of the Notes to the Senior Debt as provided in this Article 10.

Section 10.07. Subrogation.

After all Senior Debt is paid in full and until the Notes are paid in full, Holders of Notes shall be subrogated (equally and ratably with all other Indebtedness *pari passu* with the Notes) to the rights of holders of Senior Debt to receive distributions applicable to Senior Debt to the extent that distributions otherwise payable to the Holders of Notes have been applied to the payment of Senior Debt. A distribution made under this Article 10 to holders of Senior Debt that otherwise would have been made to Holders of Notes is not, as between the Company and Holders, a payment by the Company on the Notes.

Section 10.08. Relative Rights.

This Article 10 defines the relative rights of Holders of Notes and holders of Senior Debt. Nothing in this Indenture shall:

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(i) impair, as between the Company and Holders of Notes, the obligation of the Company, which is absolute and unconditional, to pay principal of and interest on the Notes in accordance with their terms;

(ii) affect the relative rights of Holders of Notes and creditors of the Company other than their rights in relation to holders of Senior Debt; or

(iii) prevent the Trustee or any Holder of Notes from exercising its available remedies upon a Default or Event of Default, subject to the rights of holders and owners of Senior Debt to receive distributions and payments otherwise payable to Holders of Notes.

If the Company fails because of this Article 10 to pay principal of or interest on a Note on the due date, the failure is still a Default or Event of Default.

Section 10.09. Subordination May Not Be Impaired by Company.

No right of any holder of Senior Debt to enforce the subordination of the Indebtedness evidenced by the Notes shall be impaired by any act or failure to act by the Company or any Holder or by the failure of the Company or any Holder to comply with this Indenture.

Section 10.10. Distribution or Notice to Representative.

Whenever a distribution is to be made or a notice given to holders of Senior Debt, the distribution may be made and the notice given to their Representative.

Upon any payment or distribution of assets of the Company referred to in this Article 10, the Trustee and the Holders of Notes shall be entitled to rely upon any order or decree made by any court of competent jurisdiction or upon any certificate of such Representative or of the liquidating trustee or agent or other Person making any distribution to the Trustee or to the Holders of Notes for the purpose of ascertaining the Persons entitled to participate in such distribution, the holders of the Senior Debt and other Indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article 10.

Section 10.11. Rights of Trustee and Paying Agent.

Notwithstanding the provisions of this Article 10 or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts that would prohibit the making of any payment or distribution by the Trustee, and the Trustee and the Paying Agent may continue to make payments on the Notes, unless the Trustee shall have received at the Corporate Trust Office of the Trustee at least five Business Days prior to the date of such payment written notice of facts that would cause the payment of any Obligations with respect to the Notes to violate this Article 10. Nothing in this Article 10 shall impair the claims of, or payments to, the Trustee under or pursuant to Section 7.07 hereof.

The Trustee in its individual or any other capacity may hold Senior Debt with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights.

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Section 10.12. Authorization to Effect Subordination.

Each Holder of Notes, by the Holder's acceptance thereof, authorizes and directs the Trustee on such Holder's behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article 10, and appoints the Trustee to act as such Holder's attorney-in-fact for any and all such purposes. If the Trustee does not file a proper proof of claim or proof of debt in the form required in any proceeding referred to in Section 6.09 hereof at least 30 days before the expiration of the time to file such claim, the Representatives are hereby authorized to file an appropriate claim for and on behalf of the Holders of the Notes.

Section 10.13. Amendments.

The provisions of this Article 10 shall not be amended or modified in a manner that adversely affects the rights of any holder of Senior Debt without the written consent of the holder of such Senior Debt (or their representative).

Section 10.14. Reliance on Judicial Order or Certificate of Liquidating Agent.

Upon any payment or distribution of assets of the Company referred to in this Article, the Trustee, subject to the provisions of Section 7.01, and the Holders of the Notes shall be entitled to conclusively rely upon any order or decree entered by any court of competent jurisdiction in which such insolvency, bankruptcy, receivership, liquidation, reorganization, dissolution, winding up or similar case or proceeding is pending, or a certificate of the trustee in bankruptcy, liquidating trustee, custodian, receiver, assignee for the benefit of creditors, agent or other person making such payment or distribution, delivered to the Trustee or to the Holders of Notes, for the purpose of ascertaining the persons entitled to participate in such payment or distribution, the holders of Senior Debt and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article 10.

ARTICLE 11  
SUBSIDIARY GUARANTEES

Section 11.01. Guarantees.

Subject to this Article 11, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that: (a) the principal and premium, if any, of, and interest and Special Interest, if any, on, the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal and premium, if any of, and interest and Special Interest, if any, on, the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. In addition to the foregoing, each Guarantor also agrees, unconditionally and jointly and severally with each other Guarantor, to pay any and all expenses

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(including, without limitation, counsel fees and expenses) incurred by the Trustee under this Indenture in enforcing any rights under a Subsidiary Guarantee with respect to a Guarantor. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

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

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

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

Section 11.02. Subordination of Subsidiary Guarantees.

The Obligations of each Guarantor under its Subsidiary Guarantee pursuant to this Article 11 shall be junior and subordinated to the Senior Debt of such Guarantor on the same basis as the Notes are junior and subordinated to Senior Debt of the Company as set forth in Article 10 hereof. Each Subsidiary Guarantee is made subject to the provisions of Article 10 hereof. For the purposes of the foregoing sentence, the Trustee and the Holders shall have the right to receive and/or retain payments by any of the Guarantors only at such times as they may receive and/or retain payments in respect of the Notes pursuant to this Indenture, including Article 10 hereof.

Section 11.03. Limitation on Guarantor Liability.

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Subsidiary Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 11, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent transfer or conveyance.

Section 11.04. Execution and Delivery of Subsidiary Guarantees.

To evidence its Subsidiary Guarantee set forth in Section 11.01, each Guarantor hereby agrees that a notation of such Subsidiary Guarantee substantially in the form included in Exhibit E shall be endorsed by an Officer of such Guarantor or by its duly appointed attorney-in-fact on each Note authenticated and delivered by the Trustee and that this Indenture shall be executed on behalf of such Guarantor by its President or one of its Vice Presidents or by its duly appointed attorney-in-fact.

Each Guarantor hereby agrees that its Subsidiary Guarantee set forth in Section 11.01 shall remain in full force and effect notwithstanding any failure to endorse on each Subsidiary a notation of such Subsidiary Guarantee. The execution of a Subsidiary Guarantee on behalf of a Guarantor by its attorney-in-fact shall constitute a representation and warranty on the part of such Guarantor hereunder of the due appointment of such attorney-in-fact.

If an Officer or duly appointed attorney-in-fact whose signature is on this Indenture or on a Subsidiary Guarantee no longer holds that office or maintains such appointment, as the case may be, at the time the Trustee authenticates the Note on which a Subsidiary Guarantee is endorsed, the Subsidiary Guarantee shall be valid nevertheless.

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

In the event that the Company creates or acquires any new Domestic Subsidiaries subsequent to the date of this Indenture, if required by Section 4.17 hereof, the Company shall cause such Domestic Subsidiaries to execute supplemental indentures to this Indenture and Subsidiary Guarantees in accordance with Section 4.17 hereof and this Article 11, to the extent applicable.

Section 11.05. Guarantors May Consolidate, etc., on Certain Terms.

Except as otherwise provided in Section 11.06, no Guarantor may sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or

merge with or into (whether or not such Guarantor is the surviving Person) another Person whether or not affiliated with such Guarantor unless:

- (a) immediately after giving effect to that transaction, no Default exists; and
- (b) either:
  - (1) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger, if other than such Guarantor, assumes all the obligations of that Guarantor under this Indenture, its Subsidiary Guarantee and, if the Exchange Offer has not been consummated or Special Interest remains due and owing, under the Registration Rights Agreement pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee and completes all other required documentation; or
  - (2) the Net Proceeds, if any, of such sale or other disposition are applied in accordance with the provisions of the third paragraph of Section 4.10 of this Indenture;

In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Subsidiary Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor Person shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or all of the Subsidiary Guarantees to be endorsed upon all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee. All the Subsidiary Guarantees so issued shall in all respects have the same legal rank and benefit under this Indenture as the Subsidiary Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Subsidiary Guarantees had been issued at the date of the execution hereof.

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

Section 11.06. Releases Following Sale of Assets.

In the event of (i) a sale or other disposition of all or substantially all of the assets of any Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all of the capital stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transactions) the Company or any other Guarantor, (ii) a termination of one or more Guarantees by any Guarantor of any other Senior Subordinated Indebtedness of the Company or any other Guarantor which results in such Guarantor no longer being subject to any Guarantee of any other Senior Subordinated Indebtedness of the Company or any other Guarantor, (iii) the exercise by the Company of its option to have either Section 8.02 or 8.03

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hereof be applied to all outstanding Notes in accordance with the terms set forth in Article 8 hereof or (iv) the designation by the Company of any Guarantor as an Unrestricted Subsidiary in accordance with the terms set forth in Section 4.13 hereof, then such Guarantor (upon the occurrence of an event described in clauses (ii), (iii) or (iv) of this paragraph) or the corporation acquiring the property (upon the occurrence of an event described in clause (i) of this paragraph) will be released and relieved of any obligations under its Subsidiary Guarantee; *provided* that the Net Proceeds, if any, of such sale or other disposition are applied in accordance with the applicable provisions of this Indenture, including without limitation Section 4.10 hereof. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture, including without limitation Section 4.10 hereof, the Trustee shall execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee.

Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 11.

## ARTICLE 12 SATISFACTION AND DISCHARGE

### Section 12.01. Satisfaction and Discharge.

This Indenture will be discharged and will cease to be of further effect as to all Notes issued hereunder, when:

(1) either:

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

(b) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and the Company or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on the Notes not delivered to the Trustee for cancellation for principal, premium and Special Interest, if any, and accrued interest to the date of maturity or redemption;

(2) no Default or Event of Default shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

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(3) the Company or any Guarantor has paid or caused to be paid all sums payable by it under this Indenture; and

(4) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at maturity or the redemption date, as the case may be.

In addition, the Company must deliver an Officers' Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied, and the Trustee on demand of and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture.

Notwithstanding the satisfaction and discharge of this Indenture, if money shall have been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section, the provisions of Section 12.02 and Section 8.06 shall survive such satisfaction and discharge.

### Section 12.02. Application of Trust Money.

Subject to the provisions of Section 8.06, all money deposited with the Trustee pursuant to Section 12.01 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or the Paying Agent is unable to apply any money or Government Securities in accordance with Section 12.01 to the Holders entitled thereto by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's and any Guarantor's obligations under this Indenture with respect to the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 12.01 until such time as the Trustee or the Paying Agent is permitted to apply all such money



or Government Security in accordance with this Indenture and the Notes to the Holders entitled thereto; *provided, however*, that if the Company makes any payment of principal of, premium, if any, or interest on any Notes following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE 13  
MISCELLANEOUS

Section 13.01. Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA § 318(c), the imposed duties shall control.

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Section 13.02. Notices.

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

If to the Company and/or any Guarantor:

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017  
Telecopier No.: (212) 297-2645  
Attention: Chief Financial Officer

With a copy to:  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue  
Worldwide Plaza  
New York, NY 10019-7475  
Telecopier No.: (212) 474-3700  
Attention: Andrew J. Pitts

If to the Trustee:

The Bank of New York  
101 Barclay Street, Floor 8W  
New York, New York 10286  
Telecopier No.: (212) 815-5707  
Attention: Corporate Trust Administration

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

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

Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in TIA § 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

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

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

Section 13.03. Communication by Holders of Notes with Other Holders of Notes.

Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

Section 13.04. Certificate and Opinion as to Conditions Precedent.

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

Trustee:

(a) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 13.05. Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA § 314(a)(4)) shall comply with the provisions of TIA § 314(e) and shall include:

(a) a statement that the Person making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

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Section 13.06. Rules by Trustee and Agents.

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

Section 13.07. No Personal Liability of Directors, Officers, Employees and Stockholders.

No past, present or future director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, shall have any liability for any obligations of the Company or such Guarantor under the Notes, the Subsidiary Guarantees, this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 13.08. Governing Law.

THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES.

Section 13.09. No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 13.10. Successors.

All agreements of the Company in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors. All agreements of each Guarantor in this Indenture shall bind its successors, except as otherwise provided in Section 11.05.

Section 13.11. Severability.

In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 13.12. Counterpart Originals.

This Indenture may be executed in two or more separate counterparts. Each executed counterpart shall be an original, but all of them together represent the same agreement.

Section 13.13. Table of Contents, Headings, etc.

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be

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considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 13.14. Benefits of Indenture.

Nothing in this Indenture, the Notes or the Subsidiary Guarantees, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, the holders of Senior Debt and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 13.15. Waiver of Jury Trial.

EACH OF THE COMPANY, THE GUARANTORS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

[SIGNATURE PAGE FOLLOWS]

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SIGNATURES

Dated as of March 26, 2007

Asbury Automotive Group, Inc.

By: /s/ J. Gordon Smith

Name: J. Gordon Smith

Title: Chief Financial Officer

Asbury Automotive Management L.L.C.  
Asbury Automotive South, L.L.C.  
Asbury Automotive West, L.L.C.  
Asbury Automotive Southern California L.L.C.  
Asbury Arkansas Hund L.L.C.  
Asbury AR Niss L.L.C .  
Asbury Automotive Arkansas Dealership Holdings L.L.C.  
Asbury Automotive Arkansas L.L.C.  
Asbury MS Gray-Daniels L.L.C.  
Asbury MS Metro L.L.C.  
Escude-M L.L.C.  
Escude-MO L.L.C.  
Escude-NN L.L.C.  
Escude-NS L.L.C.  
Escude-T L.L.C.  
NP FLM L.L.C.  
NP MZD L.L.C.  
NP VKW L.L.C.  
Premier NSN L.L.C.  
Premier Pon L.L.C.  
Prestige Bay L.L.C.  
Prestige Toy L.L.C.  
Asbury Atlanta AC L.L.C.  
Asbury Atlanta AU L.L.C.  
Asbury Atlanta BM L.L.C.  
Asbury Atlanta Chevrolet L.L.C.  
Asbury Atlanta Hon L.L.C.  
Asbury Atlanta Infiniti L.L.C.  
Asbury Atlanta Jaguar L.L.C.  
Asbury Atlanta Lex L.L.C.  
Asbury Atlanta VL L.L.C.  
Asbury Automotive Atlanta L.L.C.  
Atlanta Real Estate Holdings L.L.C.  
Spectrum Insurance Services L.L.C.  
Asbury Automotive Fresno L.L.C.  
Asbury Fresno Imports L.L.C.  
AF Motors, L.L.C.  
ALM Motors, L.L.C.

ANL, L.P. (by its general partner Asbury Jax Management L.L.C.)  
 Asbury Automotive Central Florida, L.L.C.  
 Asbury Automotive Deland, L.L.C.  
 Asbury Automotive Florida, L.L.C.  
 Asbury Automotive Jacksonville GP L.L.C.  
 Asbury Automotive Jacksonville, L.P. (by its general partner Asbury Automotive Jacksonville GP L.L.C.)  
 Asbury Deland Imports 2, L.L.C.  
 Asbury Jax AC L.L.C.  
 Asbury Jax Holdings, L.P. (by its general partner Asbury Jax Management L.L.C.)  
 Asbury Jax K L.L.C.  
 Asbury Jax Management L.L.C.  
 Asbury Jax PB Chev L.L.C.  
 Asbury-Deland Imports, L.L.C.  
 Avenues Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 Bayway Financial Services, L.P. (by its general partner Asbury Jax Management L.L.C.)  
 BFP Motors L.L.C.  
 C&O Properties, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CFP Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CH Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CHO Partnership, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CK Chevrolet L.L.C.  
 CK Motors LLC  
 CN Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 Coggin Automotive Corp.  
 Coggin Cars L.L.C.  
 Coggin Chevrolet L.L.C.  
 Coggin Management, L.P. (by its general partner Asbury Jax Management L.L.C.)  
 CP-GMC Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CSA Imports L.L.C.  
 HFP Motors L.L.C.  
 KP Motors L.L.C.  
 Asbury MS Chev, L.L.C.  
 Asbury Automotive Mississippi, L.L.C.  
 Asbury MS Wimber L.L.C.  
 Asbury MS Yazoo L.L.C.  
 Asbury No Cal Niss L.L.C.

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Asbury Sacramento Imports L.L.C.  
 Asbury So Cal DC L.L.C.  
 Asbury So Cal Hon L.L.C.  
 Asbury So Cal Niss L.L.C.  
 Asbury Automotive North Carolina Dealership Holdings L.L.C.  
 Asbury Automotive North Carolina L.L.C.  
 Asbury Automotive North Carolina Management L.L.C.  
 Asbury Automotive North Carolina Real Estate Holdings L.L.C.  
 Camco Finance II L.L.C.  
 Camco Finance L.L.C.  
 Crown Acura/Nissan, LLC  
 Crown Battleground, LLC  
 Crown CHH L.L.C.  
 Crown CHO L.L.C.  
 Crown CHV L.L.C.  
 Crown Dodge, LLC  
 Crown FDO L.L.C.  
 Crown FFO Holdings L.L.C.  
 Crown FFO L.L.C.  
 Crown Fordham L.L.C.  
 Crown GAC L.L.C.

Crown GAU L.L.C.  
 Crown GBM L.L.C.  
 Crown GCA L.L.C.  
 Crown GCH L.L.C.  
 Crown GDO L.L.C.  
 Crown GH0 L.L.C.  
 Crown GKI L.L.C.  
 Crown GMI L.L.C.  
 Crown GNI L.L.C.  
 Crown GPG L.L.C.  
 Crown GVO L.L.C.  
 Crown Honda, LLC  
 Crown Honda-Volvo, LLC  
 Crown Mitsubishi, LLC  
 Crown Motorcar Company L.L.C.  
 Crown Raleigh L.L.C.  
 Crown RIA L.L.C.  
 Crown RIB L.L.C.  
 Crown Royal Pontiac, LLC  
 Crown SJC L.L.C.  
 Crown SNI L.L.C.  
 RER Properties, LLC  
 RWIJ Properties, LLC  
 Asbury Automotive Oregon L.L.C.  
 Asbury Automotive Oregon Management L.L.C.

Thomason Frd L.L.C.  
 Thomason Auto Credit Northwest, Inc.  
 Thomason Dam L.L.C.  
 Thomason Hon L.L.C.  
 Thomason Hund L.L.C.  
 Thomason Maz L.L.C.  
 Thomason Niss L.L.C.  
 Thomason Outfitters L.L.C.  
 Thomason Pontiac-GMC L.L.C.  
 Thomason Suzu L.L.C.  
 Thomason TY L.L.C.  
 Thomason Zuk L.L.C.  
 Asbury Automotive St. Louis, L.L.C.  
 Asbury St. Louis Cadillac L.L.C.  
 Asbury St. Louis Lex L.L.C.  
 Asbury St. Louis Gen L.L.C.  
 Asbury Automotive Brandon, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
 Asbury Automotive Tampa GP L.L.C.  
 Asbury Automotive Tampa, L.P. (by its general partner Asbury Automotive Tampa GP L.L.C.)  
 Asbury Tampa Management L.L.C.  
 JC Dealer Systems L.L.C.  
 Precision Computer Services, Inc.  
 Precision Enterprises Tampa, Inc.  
 Precision Infiniti, Inc.  
 Precision Motorcars, Inc.  
 Precision Nissan, Inc.  
 Tampa Hund, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
 Tampa Kia, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
 Tampa LM, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
 Tampa Mit, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
 Tampa Suzu, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
 WMZ Brandon Motors, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
 WMZ Motors, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
 WTY Motors L.P. (by its general partner Asbury Tampa Management L.L.C.)

Asbury Automotive Texas Real Estate Holdings L.P. (by its general partner Asbury Texas Management L.L.C.)  
Asbury Texas Management L.L.C.  
McDavid Auction, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Austin-Acra, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Frisco-Hon, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Grande, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Houston-Hon, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Houston-Kia, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Houston-Niss, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Irving-Hon, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Irving-PB&G, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Irving-Zuk, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Outfitters, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Plano-Acra, L.P. (by its general partner Asbury Texas Management L.L.C.)  
Plano Lincoln-Mercury, Inc.

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Vice President

Asbury Automotive Group Holdings, Inc.  
Asbury Automotive Group L.L.C.

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Senior Vice President

Asbury Automotive Financial Services, Inc.

By: /s/ Lynne A. Burgess  
Name: Lynne A. Burgess  
Title: Vice President and Assistant Secretary

THE BANK OF NEW YORK, as Trustee

By: /s/ Carlos R. Luciano  
Name: Carlos R. Luciano  
Title: Vice President

[Face of 144A Note]

CUSIP: 043436AE4  
 ISIN: US043436AE40  
 Exchange Note CUSIP:  
 Exchange Note ISIN:  
 CUSIP for unrestricted notes:  
 ISIN for unrestricted notes:

7.625% Senior Subordinated Notes due 2017

No. 144A-[1]

\$

ASBURY AUTOMOTIVE GROUP, INC.

promises to pay to \_\_\_\_\_, or registered assigns, the principal sum of \_\_\_\_\_ Dollars on March 15, 2017.

Interest Payment Dates: March 15 and September 15 of each year until maturity and the Maturity Date

Record Dates: March 1 with respect to March 15 Interest Payment Dates, September 1 with respect to September 15 Interest Payment Dates and March 1, 2017 with respect to interest payable at maturity.

Dated:

ASBURY AUTOMOTIVE GROUP, INC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

This is one of the Notes referred to in the within mentioned Indenture:

Dated:

THE BANK OF NEW YORK,  
 As Trustee

A1-1

By: \_\_\_\_\_

Authorized Signatory

A1-2

[Back of Note]

7.625% Senior Subordinated Notes due 2017

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. INTEREST. Asbury Automotive Group, Inc., a Delaware corporation (the “Company”), promises to pay interest on the principal amount of this Note at 7.625% per annum from March 26, 2007 until maturity and shall pay the Special Interest payable pursuant to Section 2 of the Registration Rights Agreement referred to below. The Company will pay interest and Special Interest semi-annually in arrears on March 15 and September 15 of each year and on maturity, or if any such day is not a Business Day, on the next succeeding Business Day (each an “Interest Payment Date”). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided, further*, that the first Interest Payment Date shall be September 15, 2007. The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect; it shall pay interest (including post-petition

interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Special Interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

2. **METHOD OF PAYMENT.** The Company will pay interest on the Notes (except defaulted interest) and Special Interest to the Persons who are registered Holders of Notes at the close of business on (i) the 1<sup>st</sup> of March next preceding each March 15 Interest Payment Date; (ii) the 1<sup>st</sup> of September next preceding each September 15 Interest Payment Date; and (iii) March 1, 2017 with respect to interest payable at maturity even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium and Special Interest, if any, and interest at the office or agency of the Company maintained for such purpose within the City and State of New York, or, at the option of the Company, payment of interest and premium or Special Interest, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of, and interest, premium and Special Interest, if any, on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. **PAYING AGENT AND REGISTRAR.** Initially, The Bank of New York, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may

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change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. **INDENTURE.** The Company issued the Notes under an Indenture dated as of March 26, 2007 (“Indenture”) between the Company, the Guarantors thereto and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code §§ 77aaa-77bbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Company shall be entitled, subject to its compliance with Section 4.09 of the Indenture, to issue additional Notes pursuant to Section 2.14 of the Indenture.

#### 5. **OPTIONAL REDEMPTION.**

(a) Except as set forth in subparagraphs (b) and (c) of this Paragraph 5, the Company shall not have the option to redeem the Notes prior to March 15, 2012. Thereafter, the Company shall have the option to redeem all or part of the Notes upon not less than 30 nor more than 60 days’ notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and Special Interest thereon, if any, to the applicable redemption date, if redeemed during the twelve-month period beginning on March 15 of the years indicated below:

<u>Year</u>	<u>Percentage</u>
2012	103.813%
2013	102.542%
2014	101.271%
2015 and thereafter	100.000%

(b) Notwithstanding the provisions of subparagraph (a) of this Paragraph 5, at any time, after the date hereof, on or prior to March 15, 2010, the Company may on any one or more occasions redeem up to 35% of the aggregate principal amount of the Notes (which includes Additional Notes) issued under the Indenture at a redemption price equal to 107.625% of the aggregate principal amount thereof, plus accrued and unpaid interest and Special Interest thereon, if any, to the redemption date with the net cash proceeds of one or more Equity Offerings *provided* that:

(i) at least 65% of the aggregate principal amount of the Notes originally issued remains outstanding immediately after the occurrence of such redemption (excluding Notes held by the Company or any of its Subsidiaries); and

(ii) the redemption occurs within 45 days of the date of the closing of such Equity Offering.

(c) At any time prior to March 15, 2012, all or part of the Notes may also be redeemed at the option of the Company, upon not less than 30 nor more than 60 days prior notice mailed by first-class mail to each Holder’s registered address, at a redemption price equal to 100% of the principal amount thereof plus the Applicable Premium as of, and accrued and unpaid interest and Special Interest thereon, if any, to the Redemption Date.

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#### 6. **MANDATORY REDEMPTION.**

Except as set forth in paragraph 7 below, the Company shall not be required to make mandatory redemption payments with respect to the Notes.

#### 7. **REPURCHASE AT OPTION OF HOLDER.**

(a) If there is a Change of Control, the Company shall be required to make an offer (a “Change of Control Offer”) to repurchase all or any part (equal to an integral multiple of \$1,000) of each Holder’s Notes at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Special Interest thereon, if any, to the date of purchase (the “Change of Control Payment”); *provided* that, if only a portion of the Notes of the Holders is to be repurchased, the unrepurchased portion of the Notes of any Holder must be equal to \$2,000 in principal amount or an integral



multiple of \$1,000 in excess thereof. Within 30 days following any Change of Control, the Company shall mail a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture.

(b) If the Company or a Restricted Subsidiary consummates any Asset Sales, within five days of each date on which the aggregate amount of Excess Proceeds exceeds \$10.0 million, the Company shall commence an offer to all Holders of Notes (as “Asset Sale Offer”) pursuant to Section 3.09 of the Indenture to purchase the maximum principal amount of Notes (including any Additional Notes) that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof plus accrued and unpaid interest thereon, if any, to the date fixed for the closing of such offer, in accordance with the procedures set forth in the Indenture. To the extent that the aggregate amount of Notes (including any Additional Notes) tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Company (or such Subsidiary) may use such deficiency for general corporate purposes. If the aggregate principal amount of Notes surrendered by Holders thereof exceeds the amount of Excess Proceeds, the Trustee shall select the Notes to be purchased on a pro rata basis. Holders of Notes that are the subject of an offer to purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such Notes purchased by completing the form entitled “Option of Holder to Elect Purchase” on the reverse of the Notes.

8. NOTICE OF REDEMPTION. Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date (except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with Article 8 or Article 12 of the Indenture) to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$2,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed; *provided* that, if only a portion of the Notes of a Holder is to be redeemed, the unredeemed portion of the Notes of such Holder must be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof. On and after the redemption date interest ceases to accrue on Notes or portions thereof called for redemption.

9. DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder

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to pay any taxes and fees required by law or permitted by the Indenture; *provided* that no service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange; *provided, however*, that the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.09, 4.10, 4.15 and 9.05 of the Indenture). The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

10. PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

11. AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Notes and Additional Notes, if any, voting as a single class, and any existing default or compliance with any provision of the Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes and Additional Notes, if any, voting as a single class. Without the consent of any Holder of a Note, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency or to make a modification of a formal, minor or technical nature or to correct a manifest error, to provide for uncertificated Notes in addition to or in place of certificated Notes, to comply with the covenant relating to mergers, consolidations and sales of assets, to provide for the assumption of the Company’s or Guarantor’s obligations to Holders of the Notes in case of a merger or consolidation or sale of all or substantially all of the Company’s assets, to add Guarantees with respect to the Notes or to secure the Notes, to add to the covenants of the Company or any Guarantor for the benefit of the Holders of the Notes or surrender any right or power conferred upon the Company or any Guarantor, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act, to evidence and provide for the acceptance and appointment under the Indenture of a successor trustee pursuant to the requirements thereof, to provide for the issuance of exchange or private exchange notes or to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture.

12. DEFAULTS AND REMEDIES. Events of Default include: (i) default for 30 days in the payment when due of interest on, or Special Interest, if any, with respect to, the Notes, whether or not prohibited by Article 10 of the Indenture; (ii) default in payment when due of principal of, or premium, if any, on the Notes when the same becomes due and payable at maturity, upon redemption (including in connection with an offer to purchase) or otherwise, whether or not prohibited by Article 10 of the Indenture; (iii) failure by the Company to comply with Section 5.01 of the Indenture; (iv) failure by the Company or any of its Restricted Subsidiaries to comply with Sections 4.07, 4.09, 4.10 or 4.15 of the Indenture for a period of 30 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate

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principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class; (v) failure by the Company or any of its Restricted Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class to observe or perform any other covenant or other agreement in the Indenture; (vi) default under certain other agreements relating to Indebtedness of the Company or any of its Restricted Subsidiaries, which default is caused by a failure to pay principal at its stated final maturity (after giving effect to any applicable grace period provided in such Indebtedness) (a “Payment Default”) or results in the acceleration of such Indebtedness prior to its express maturity and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$15.0

million or more; (vii) certain final judgments for the payment of money that remain not paid, discharged or stayed for a period of 60 days, *provided* that the aggregate of all such not paid, discharged or stayed judgments exceeds \$15.0 million; (viii) certain events of bankruptcy or insolvency with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries as specified in clauses (i) and (j) of Section 6.01 of the Indenture; and (ix) except as permitted by the Indenture, any Subsidiary Guarantee shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor or any Person acting on its behalf shall deny or disaffirm its obligations under such Guarantor's Subsidiary Guarantee. If any Event of Default (other than an Event of Default specified in clause (i) or (j) of Section 6.01 of the Indenture with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries) occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Upon any such declaration the Notes shall become due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency as specified in clauses (i) and (j) of Section 6.01 of the Indenture with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries, all outstanding Notes will become due and payable immediately without further action or notice. Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal of, premium, if any, or interest on, any Note) if and so long as a committee of its Responsible Officers in good faith determines that withholding notice is in the interests of the Holders of the Notes. The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default and its consequences under the Indenture except a continuing Default in the payment of principal of, Special Interest, if any, or interest on, the Notes (other than non-payment of principal of or interest on or Special Interest, if any, on the Notes that become due solely because of the acceleration of the Notes) (*provided* that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

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13. TRUSTEE DEALINGS WITH COMPANY. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

14. NO RECOURSE AGAINST OTHERS. A director, officer, employee, incorporator or stockholder, of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

15. AUTHENTICATION. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

16. ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

17. ADDITIONAL RIGHTS OF HOLDERS OF RESTRICTED GLOBAL NOTES AND RESTRICTED DEFINITIVE NOTES. In addition to the rights provided to Holders of Notes under the Indenture, Holders of Restricted Global Notes and Restricted Definitive Notes shall have all the rights set forth in the Exchange and Registration Rights Agreement dated as of March 26, 2007, between the Company and the parties named on the signature pages thereof or, in the case of Additional Notes, Holders of Restricted Global Notes and Restricted Definitive Notes shall have the rights set forth in one or more registration rights agreements, if any, among the Company and the other parties thereto relating to rights given by the Company to the purchasers of Additional Notes (collectively, the "Registration Rights Agreement").

18. CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Registration Rights Agreement. Requests may be made to:

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017  
Attention: Chief Financial Officer

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#### ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

\_\_\_\_\_  
(Insert assignee's legal name)

(Insert assignee's Social Security or Tax Identification Number)

(Print or type assignee's name, address and zip code)

and irrevocably appoint \_\_\_\_\_  
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: \_\_\_\_\_

(Sign exactly as your name appears on the face of this Note)

Your  
Signature:

Signature Guarantee\*:

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

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#### OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture check the appropriate box below.

☐ Section 4.10

☐ Section 4.15

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.15 of the Indenture, state the amount you elect to have purchased:

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Date:

Your Signature:

(Sign exactly as your name appears on the face of this Note)

Tax Identification No.:

Signature Guarantee\*:

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

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#### SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Note Custodian
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[Face of Regulation S Global Note]

CUSIP: U04348AC9  
 ISIN: USU04348AC93  
 Exchange Note CUSIP:  
 Exchange Note ISIN:  
 CUSIP for unrestricted notes:  
 ISIN for unrestricted notes:

7.625% Senior Subordinated Notes due 2017

No. [ST][SP]-[1]

\$

ASBURY AUTOMOTIVE GROUP, INC.

promises to pay to \_\_\_\_\_, or registered assigns, the principal sum of \_\_\_\_\_ Dollars on March 15, 2017.

Interest Payment Dates: March 15, and September 15 of each year until maturity and the Maturity Date.

Record Dates: March 1 with respect to March 15 Interest Payment Dates, September 1 with respect to September 15 Interest Payment Dates and March 1, 2017 with respect to interest payable at maturity.

Dated: March 26, 2007

ASBURY AUTOMOTIVE GROUP, INC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

This is one of the Notes referred to in the within mentioned Indenture:

Dated: March 26, 2007

THE BANK OF NEW YORK,  
 as Trustee

By: \_\_\_\_\_  
 Authorized Signatory

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Back of Regulation S Temporary Global Note  
 7.625% Senior Subordinated Notes due 2017

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

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC"), TO ASBURY AUTOMOTIVE GROUP, INC. OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

THE NOTES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933 (THE “SECURITIES ACT”) AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) (1) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (4) TO AN INSTITUTIONAL ACCREDITED INVESTOR IN A TRANSACTION EXEMPT FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT OR (5) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

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1. INTEREST. Asbury Automotive Group, Inc., a Delaware corporation (the “Company”), promises to pay interest on the principal amount of this Note at 7.625% per annum from March 26, 2007 until maturity and shall pay the Special Interest payable pursuant to Section 2 of the Registration Rights Agreement referred to below. The Company will pay interest and Special Interest semi-annually in arrears on March 15 and September 15 of each year and on maturity, or if any such day is not a Business Day, on the next succeeding Business Day (each an “Interest Payment Date”). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided, further*, that the first Interest Payment Date shall be September 15, 2007. The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Special Interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

Until this Regulation S Temporary Global Note is exchanged for one or more Regulation S Permanent Global Notes, the Holder hereof shall not be entitled to receive payments of interest hereon; until so exchanged in full, this Regulation S Temporary Global Note shall in all other respects be entitled to the same benefits as other Senior Subordinated Notes under the Indenture.

2. METHOD OF PAYMENT. The Company will pay interest on the Notes (except defaulted interest) and Special Interest to the Persons who are registered Holders of Notes at the close of business on (i) the 1<sup>st</sup> of March next preceding each March 15 Interest Payment Date; (ii) the 1<sup>st</sup> of September next preceding each September 15 Interest Payment Date; and (iii) March 1, 2017 with respect to interest payable at maturity even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium and Special Interest, if any, and interest at the office or agency of the Company maintained for such purpose within the City and State of New York, or, at the option of the Company, payment of interest and premium or Special Interest, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of, and interest, premium and Special Interest, if any, on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. PAYING AGENT AND REGISTRAR. Initially, The Bank of New York, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. INDENTURE. The Company issued the Notes under an Indenture dated as of March 26, 2007 (“Indenture”), between the Company, the Guarantors thereto and the

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Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code §§ 77aaa-77bbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Company shall be entitled, subject to its compliance with Section 4.09 of the Indenture, to issue additional Notes pursuant to Section 2.14 of the Indenture.

#### 5. OPTIONAL REDEMPTION.

(a) Except as set forth in subparagraphs (b) and (c) of this Paragraph 5, the Company shall not have the option to redeem the Notes prior to March 15, 2012. Thereafter, the Company shall have the option to redeem all or part of the Notes upon not less than 30 nor more than 60 days’ notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and Special Interest thereon, if any, to the applicable redemption date, if redeemed during the twelve-month period beginning on March 15 of the years indicated below:

<u>Year</u>	<u>Percentage</u>
2012	103.813%
2013	102.542%
2014	101.271%
2015 and thereafter	100.000%

(b) Notwithstanding the provisions of subparagraph (a) of this Paragraph 5, at any time, after the date hereof, on or prior to March 15, 2010, the Company may on any one or more occasions redeem up to 35% of the aggregate principal amount of the Notes (which includes Additional Notes) issued under the Indenture at a redemption price equal to 107.625% of the aggregate principal amount thereof, plus accrued and unpaid interest and Special Interest thereon, if any, to the redemption date with the net cash proceeds of one or more Equity Offerings *provided* that:

(i) at least 65% of the aggregate principal amount of the Notes originally issued remains outstanding immediately after the occurrence of such redemption (excluding Notes held by the Company or any of its Subsidiaries); and

(ii) the redemption occurs within 45 days of the date of the closing of such Equity Offering.

(c) At any time prior to March 15, 2012, all or part of the Notes may also be redeemed at the option of the Company, upon not less than 30 nor more than 60 days prior notice mailed by first-class mail to each Holder's registered address, at a redemption price equal to 100% of the principal amount thereof plus the Applicable Premium as of, and accrued and unpaid interest and Special Interest thereon, if any, to the Redemption Date.

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6. MANDATORY REDEMPTION.

Except as set forth in paragraph 7 below, the Company shall not be required to make mandatory redemption payments with respect to the Notes.

7. REPURCHASE AT OPTION OF HOLDER.

(a) If there is a Change of Control, the Company shall be required to make an offer (a "Change of Control Offer") to repurchase all or any part (equal to an integral multiple of \$1,000) of each Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Special Interest thereon, if any, to the date of purchase (the "Change of Control Payment"); *provided* that, if only a portion of the Notes of the Holders is to be repurchased, the unrepurchased portion of the Notes of any Holder must be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof. Within 30 days following any Change of Control, the Company shall mail a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture.

(b) If the Company or a Restricted Subsidiary consummates any Asset Sales, within five days of each date on which the aggregate amount of Excess Proceeds exceeds \$10.0 million, the Company shall commence an offer to all Holders of Notes (as "Asset Sale Offer") pursuant to Section 3.09 of the Indenture to purchase the maximum principal amount of Notes (including any Additional Notes) that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof plus accrued and unpaid interest thereon, if any, to the date fixed for the closing of such offer, in accordance with the procedures set forth in the Indenture. To the extent that the aggregate amount of Notes (including any Additional Notes) tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Company (or such Subsidiary) may use such deficiency for general corporate purposes. If the aggregate principal amount of Notes surrendered by Holders thereof exceeds the amount of Excess Proceeds, the Trustee shall select the Notes to be purchased on a pro rata basis. Holders of Notes that are the subject of an offer to purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes.

8. NOTICE OF REDEMPTION. Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date (except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with Article 8 or Article 12 of the Indenture) to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$2,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed; *provided* that, if only a portion of the Notes of a Holder is to be redeemed, the unredeemed portion of the Notes of such Holder must be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof. On and after the redemption date interest ceases to accrue on Notes or portions thereof called for redemption.

9. DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder

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to pay any taxes and fees required by law or permitted by the Indenture; *provided* that no service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange; *provided, however*, that the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.09, 4.10, 4.15 and 9.05 of the Indenture). The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

This Regulation S Temporary Global Note is exchangeable in whole or in part for one or more Global Notes only (i) on or after the termination of the 40-day distribution compliance period (as defined in Regulation S under the Securities Act) and (ii) upon presentation of certificates (accompanied by an Opinion of Counsel, if applicable) required by Article 2 of the Indenture. Upon exchange of this Regulation S Temporary Global Note for one or more Global Notes, the Trustee shall cancel this Regulation S Temporary Global Note.

10. PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

11. AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Notes and Additional Notes, if any, voting as a single class, and any existing default or compliance with any provision of the Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes and Additional Notes, if any, voting as a single class. Without the consent of any Holder of a Note, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency or to make a modification of a formal, minor or technical nature or to correct a manifest error, to provide for uncertificated Notes in addition to or in place of certificated Notes, to comply with the covenant relating to mergers, consolidations and sales of assets, to provide for the assumption of the Company's or Guarantor's obligations to Holders of the Notes in case of a merger or consolidation or sale of all or substantially all of the Company's assets, to add Guarantees with respect to the Notes or to secure the Notes, to add to the covenants of the Company or any Guarantor for the benefit of the Holders of the Notes or surrender any right or power conferred upon the Company or any Guarantor, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act, to evidence and provide for the acceptance and appointment under the Indenture of a successor trustee pursuant to the requirements thereof, or to provide for the issuance of exchange or private exchange notes.

12. DEFAULTS AND REMEDIES. Events of Default include: (i) default for 30 days in the payment when due of interest on, or Special Interest, if any, with respect to, the Notes, whether or not prohibited by Article 10 of the Indenture; (ii) default in payment when due of principal of, or premium, if any, on the Notes when the same becomes due and payable at

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maturity, upon redemption (including in connection with an offer to purchase) or otherwise, whether or not prohibited by Article 10 of the Indenture; (iii) failure by the Company to comply with Section 5.01 of the Indenture; (iv) failure by the Company or any of its Restricted Subsidiaries to comply with Sections 4.07, 4.09, 4.10 or 4.15 of the Indenture for a period of 30 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class; (v) failure by the Company or any of its Restricted Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class to observe or perform any other covenant or other agreement in the Indenture; (vi) default under certain other agreements relating to Indebtedness of the Company or any of its Restricted Subsidiaries, which default is caused by a failure to pay principal at its stated final maturity (after giving effect to any applicable grace period provided in such Indebtedness) (a "Payment Default") or results in the acceleration of such Indebtedness prior to its express maturity and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$15.0 million or more; (vii) certain final judgments for the payment of money that remain not paid, discharged or stayed for a period of 60 days, *provided that* the aggregate of all such not paid, discharged or stayed judgments exceeds \$15.0 million; (viii) certain events of bankruptcy or insolvency with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries as specified in clauses (i) and (j) of Section 6.01 of the Indenture; and (ix) except as permitted by the Indenture, any Subsidiary Guarantee shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor or any Person acting on its behalf shall deny or disaffirm its obligations under such Guarantor's Subsidiary Guarantee. If any Event of Default (other than an Event of Default specified in clause (i) or (j) of Section 6.01 of the Indenture with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries) occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Upon any such declaration the Notes shall become due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency as specified in clauses (i) and (j) of Section 6.01 of the Indenture with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries, all outstanding Notes will become due and payable immediately without further action or notice. Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal of, premium, if any, or interest on, any Note) if and so long as a committee of its Responsible Officers in good faith determines that withholding notice is in the interests of the Holders of the Notes. The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default and its consequences under the Indenture except a continuing Default in the payment of principal of, Special Interest, if any, or interest on, the Notes (other than non-payment of principal of or interest on or Special Interest, if any, on the Notes that become due solely because of the acceleration of the Notes) (*provided that* the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). The Company is

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required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

13. TRUSTEE DEALINGS WITH COMPANY. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

14. NO RECOURSE AGAINST OTHERS. A director, officer, employee, incorporator or stockholder, of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

15. AUTHENTICATION. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

16. ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

17. ADDITIONAL RIGHTS OF HOLDERS OF RESTRICTED GLOBAL NOTES AND RESTRICTED DEFINITIVE NOTES. In addition to the rights provided to Holders of Notes under the Indenture, Holders of Restricted Global Notes and Restricted Definitive Notes shall have all the rights set forth in the Exchange and Registration Rights Agreement dated as of March 26, 2007, between the Company and the parties named on the signature pages thereof or, in the case of Additional Notes, Holders of Restricted Global Notes and Restricted Definitive Notes shall have the rights set forth in one or more registration rights agreements, if any, among the Company and the other parties thereto relating to rights given by the Company to the purchasers of Additional Notes (collectively, the “Registration Rights Agreement”).

18. CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Registration Rights Agreement. Requests may be made to:

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor

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New York, New York 10017  
Attention: Chief Financial Officer

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#### ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: \_\_\_\_\_  
(Insert assignee’s legal name)

\_\_\_\_\_  
(Insert assignee’s Social Security or Tax Identification Number)

\_\_\_\_\_  
(Print or type assignee’s name, address and zip code)

and irrevocably appoint \_\_\_\_\_  
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Your  
Signature: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee)

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If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture check the appropriate box below.

☐ Section 4.10

☐ Section 4.15

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.15 of the Indenture, state the amount you elect to have purchased:

\$

Date:

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)  
Tax Identification No.: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

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#### SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Note Custodian

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EXHIBIT B

#### FORM OF CERTIFICATE OF TRANSFER

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017

[Registrar address block]

Re: 7.625% Senior Subordinated Notes due 2017

Reference is hereby made to the Indenture, dated as of March 26, 2007 (the “Indenture”), between Asbury Automotive Group, Inc., as issuer (the “Company”), the subsidiary guarantors listed on Schedule I to the Indenture, and The Bank of New York, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

, (the “Transferor”) owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$ in such Note[s] or interests (the “Transfer”), to (the “Transferee”), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. ☐ CHECK IF TRANSFeree WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 144A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the “Securities Act”), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a

“qualified institutional buyer” within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

2.       o CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE REGULATION S TEMPORARY GLOBAL NOTE, THE REGULATION S GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person

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acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note, the Regulation S Temporary Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

3.       o CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 144A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a)       o such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b)       o such Transfer is being effected to the Company or a subsidiary thereof;

or

(c)       o such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act;

or

(d)       o such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the

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Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Definitive Notes and in the Indenture and the Securities Act.

4.       o Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note.

(a)       o Check if Transfer is pursuant to Rule 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b)       o Check if Transfer is Pursuant to Regulation S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private

Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) o Check if Transfer is Pursuant to Other Exemption. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

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This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

Date: \_\_\_\_\_

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ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

- (a) o a beneficial interest in the:
- (i) o 144A Global Note (CUSIP \_\_\_\_\_), or
- (ii) o Regulation S Global Note (CUSIP \_\_\_\_\_), or
- (b) o a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

- (a) o a beneficial interest in the:
- (i) o 144A Global Note (CUSIP \_\_\_\_\_), or
- (ii) o Regulation S Global Note (CUSIP \_\_\_\_\_), or
- (iii) o Unrestricted Global Note (CUSIP \_\_\_\_\_); or
- (b) o a Restricted Definitive Note; or
- (c) o an Unrestricted Definitive Note,
- in accordance with the terms of the Indenture.

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[Registrar address block]

Re: 7.625% Senior Subordinated Notes due 2017

(CUSIP )

Reference is hereby made to the Indenture, dated as of March 26, 2007 (the “Indenture”), between Asbury Automotive Group, Inc., as issuer (the “Company”), the subsidiary guarantors listed on Schedule I to the Indenture, and The Bank of New York, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

, (the “Owner”) owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$ in such Note[s] or interests (the “Exchange”). In connection with the Exchange, the Owner hereby certifies that:

1. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE

(a) o CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner’s beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner’s own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the “Securities Act”), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) o CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner’s beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner’s own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance

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with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) o CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner’s Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner’s own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) o CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner’s Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner’s own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES

(a) o CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner’s beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner’s own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) o CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner’s Restricted Definitive Note for a beneficial interest in the [CHECK ONE] o 144A Global Note or o Regulation S Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner’s own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated

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in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

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This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

\_\_\_\_\_  
[Insert Name of Transferor]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title \_\_\_\_\_

Date: \_\_\_\_\_

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EXHIBIT D

FORM OF CERTIFICATE FROM  
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017

[Registrar address block]

Re: 7.625% Senior Subordinated Notes due 2017

Reference is hereby made to the Indenture, dated as of March 26, 2007 (the “Indenture”), between Asbury Automotive Group, Inc., as issuer (the “Company”), the subsidiary guarantors listed on Schedule I to the Indenture, and The Bank of New York, as Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of \$ \_\_\_\_\_ aggregate principal amount of:

(a) o a beneficial interest in a Global Note, or

(b) o a Definitive Note,

we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in compliance with, such restrictions and conditions and the United States Securities Act of 1933, as amended (the “Securities Act”).

2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Notes or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a “qualified institutional buyer” (as defined therein), (C) to an institutional “accredited investor” (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144(k) under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any person purchasing the Definitive Note or beneficial interest in a Global Note from

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us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

3. We understand that, on any proposed resale of the Notes or beneficial interest therein, we will be required to furnish to you and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that the Notes purchased by us will bear a legend to the foregoing effect.

4. We are an institutional “accredited investor” (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes or beneficial interest therein purchased by us for our own account or for one or more accounts (each of which is an institutional “accredited investor”) as to each of which we exercise sole investment discretion.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

\_\_\_\_\_  
[Insert Name of Transferor]

By: \_\_\_\_\_  
Name:  
Title

Date: \_\_\_\_\_

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EXHIBIT E

[FORM OF SUBSIDIARY GUARANTEE]

For value received, the Guarantors (which term includes any successor Persons under the Indenture) have, jointly and severally, guaranteed, to the extent set forth in the Indenture and subject to the provisions in the Indenture, dated as of March 26, 2007 (the “Indenture”), among Asbury Automotive Group, Inc., the Guarantors listed on Schedule I thereto and The Bank of New York, as trustee (the “Trustee”), (a) that the principal and premium, if any, of, and interest and Special Interest, if any, on, the Notes (as defined in the Indenture) will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal and premium, if any, of, and interest and Special Interest, if any, on, the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee under the Indenture or the Notes will be promptly paid in full or performed, all in accordance with the terms of the Indenture and the Notes and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. The obligations of the Guarantors to the Holders of Notes and to the Trustee pursuant to the Subsidiary Guarantee and the Indenture are expressly set forth in Article 11 of the Indenture and reference is hereby made to the Indenture for the precise terms of the Subsidiary Guarantee. Each Holder of a Note, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee, on behalf of such Holder, to take such action as may be necessary or appropriate to effectuate the subordination as provided in the Indenture and (c) appoints the Trustee attorney-in-fact of such Holder for such purpose; *provided* that the Indebtedness evidenced by this Subsidiary Guarantee shall cease to be so subordinated and subject in right of payment upon any defeasance of this Note in accordance with the provisions of the Indenture.

[NAME OF GUARANTOR(S)]

By: \_\_\_\_\_  
Name:  
Title

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EXHIBIT F

[FORM OF SUPPLEMENTAL INDENTURE  
TO BE DELIVERED BY SUBSEQUENT GUARANTORS]

SUPPLEMENTAL INDENTURE (this “Supplemental Indenture”), dated as of \_\_\_\_\_, among \_\_\_\_\_ (the “Guaranteeing Subsidiary”), a subsidiary of Asbury Automotive Group, Inc. (or its permitted successor), a Delaware corporation (the “Company”), the Company, the other Guarantors (as defined in the Indenture referred to herein) and The Bank of New York, as trustee under the indenture referred to below (the “Trustee”).

W I T N E S S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the “Indenture”), dated as of March 26, 2007 providing for the issuance of 7.625% Senior Subordinated Notes due 2017 (the “Notes”);

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Company’s Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the “Subsidiary Guarantee”); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees as follows:

(a) Along with all Guarantors named in the Indenture, to jointly and severally Guarantee to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, the Notes or the obligations of the Company hereunder or thereunder, that:

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

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(ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately.

(b) The obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.

(c) The following is hereby waived: diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever.

(d) This Subsidiary Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes and the Indenture, and the Guaranteeing Subsidiary accepts all obligations of a Guarantor under the Indenture.

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

(f) The Guaranteeing Subsidiary shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby.

(g) As between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 of the Indenture for the purposes of this Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 of the Indenture, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Subsidiary Guarantee.

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(h) The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Guarantee.

(i) Pursuant to Section 10.02 of the Indenture, after giving effect to any maximum amount and any other contingent and fixed liabilities that are relevant under any applicable Bankruptcy or fraudulent conveyance laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under Article 10 of the Indenture, this new Subsidiary Guarantee shall be limited to the maximum amount permissible such that the obligations of such Guarantor under this Subsidiary Guarantee will not constitute a fraudulent transfer or conveyance.

3. EXECUTION AND DELIVERY. Each Guaranteeing Subsidiary agrees that the Subsidiary Guarantees shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Subsidiary Guarantee.

4. GUARANTEEING SUBSIDIARY MAY CONSOLIDATE, ETC. ON CERTAIN TERMS.

(a) The Guaranteeing Subsidiary may not sell or otherwise dispose of all or substantially all of its assets to or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another corporation, Person or entity whether or not affiliated with such Guarantor unless:

either

(i)

(A) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger, if other than such Guarantor, assumes all the obligations of that Guarantor under the Indenture, its Guarantee and, if the Exchange Offer has not been consummated or Special Interest remains due and owing, under the Registration Rights Agreement pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee and completes all other required documentation; or

(B) the Net Proceeds, if any, of such sale or other disposition are applied in accordance with the provisions of described in the third paragraph of Section 4.10 of this Indenture; and

(ii) immediately after giving effect to such transaction, no Default exists.

(b) In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor corporation, by supplemental

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indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Subsidiary Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of the Indenture to be performed by the Guarantor, such successor corporation shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor corporation thereupon may cause to be signed any or all of the Subsidiary Guarantees to be endorsed upon all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee. All the Subsidiary Guarantees so issued shall in all respects have the same legal rank and benefit under the Indenture as the Subsidiary Guarantees theretofore and thereafter issued in accordance with the terms of the Indenture as though all of such Subsidiary Guarantees had been issued at the date of the execution hereof.

(c) Except as set forth in Articles 4 and 5 and Section 11.05 of Article 11 of the Indenture, and notwithstanding clauses (a) and (b) above, nothing contained in the Indenture or in any of the Notes shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

5. RELEASES.

(a) In the event of (i) a sale or other disposition of all or substantially all of the assets of any Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all of the capital stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transactions) the Company or any other Guarantor, (ii) a termination of one or more Guarantees by any Guarantor of any other Senior Subordinated Indebtedness of the Company or any other Guarantor which results in such Guarantor no longer being subject to any Guarantee of any other Senior Subordinated Indebtedness of the Company or any other Guarantor, (iii) the exercise by the Company of its option to have either Section 8.02 or 8.03 of the Indenture be applied to all outstanding Notes in accordance with the terms set forth in Article 8 of the Indenture or (iv) the designation by the Company of any Guarantor as an Unrestricted Subsidiary in accordance with the terms set forth in Section 4.13 of the Indenture, then such Guarantor (upon the occurrence of an event described in clauses (ii), (iii) or (iv) of this paragraph) or the corporation acquiring the property (upon the occurrence of an event described in clause (i) of this paragraph) will be released and relieved of any obligations under its Subsidiary Guarantee; *provided* that the Net Proceeds, if any, of such sale or other disposition are applied in accordance with the applicable provisions of the Indenture, including without limitation Section 4.10 of the Indenture. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of the Indenture, including without limitation Section 4.10 of the Indenture, the Trustee shall execute any

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documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee.

(b) Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under the Indenture as provided in Article 11 of the Indenture.



6. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guaranteeing Subsidiary, as such, shall have any liability for any obligations of the Company or any Guaranteeing Subsidiary under the Notes, any Subsidiary Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

7. NEW YORK LAW TO GOVERN. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE.

8. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

9. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

10. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

SIGNATURES

Dated as of \_\_\_\_\_, 20 \_\_\_\_

ASBURY AUTOMOTIVE GROUP, INC.

By: \_\_\_\_\_  
Name:  
Title

EACH GUARANTOR LISTED ON SCHEDULE I  
HERETO

By: \_\_\_\_\_  
Name:  
Title

THE BANK OF NEW YORK

By: \_\_\_\_\_  
Name:  
Title

Schedule I

SCHEDULE OF GUARANTORS

The following schedule lists each Guarantor under the Indenture as of the Issue Date:

Legal Name
Asbury Automotive Financial Services, Inc.
Asbury Automotive Group Holdings, Inc.
Asbury Automotive Group L.L.C.
Asbury Automotive Management L.L.C.
Asbury Automotive South, L.L.C.
Asbury Automotive West, L.L.C.
Asbury Automotive Southern California L.L.C.

Asbury Arkansas Hund L.L.C.  
Asbury AR Niss L.L.C .  
Asbury Automotive Arkansas Dealership Holdings L.L.C.  
Asbury Automotive Arkansas L.L.C.  
Asbury MS Gray-Daniels L.L.C.  
Asbury MS Metro L.L.C.  
Escude-M L.L.C.  
Escude-MO L.L.C.  
Escude-NN L.L.C.  
Escude-NS L.L.C.  
Escude-T L.L.C.  
NP FLM L.L.C.  
NP MZD L.L.C.  
NP VKW L.L.C.  
Premier NSN L.L.C.  
Premier Pon L.L.C.  
Prestige Bay L.L.C.  
Prestige Toy L.L.C.  
Asbury Atlanta AC L.L.C.  
Asbury Atlanta AU L.L.C.  
Asbury Atlanta BM L.L.C.  
Asbury Atlanta Chevrolet L.L.C.  
Asbury Atlanta Hon L.L.C.  
Asbury Atlanta Infiniti L.L.C.  
Asbury Atlanta Jaguar L.L.C.  
Asbury Atlanta Lex L.L.C.  
Asbury Atlanta VL L.L.C.  
Asbury Automotive Atlanta L.L.C.  
Atlanta Real Estate Holdings L.L.C.  
Spectrum Insurance Services L.L.C.  
Asbury Automotive Fresno L.L.C.  
Asbury Fresno Imports L.L.C.  
AF Motors, L.L.C.  
ALM Motors, L.L.C.  
ANL, L.P.

Asbury Automotive Central Florida, L.L.C.  
Asbury Automotive Deland, L.L.C.  
Asbury Automotive Florida, L.L.C.  
Asbury Automotive Jacksonville GP L.L.C.  
Asbury Automotive Jacksonville, L.P.  
Asbury Deland Imports 2, L.L.C.  
Asbury Jax AC, L.L.C.  
Asbury Jax Holdings, L.P.  
Asbury Jax K, L.L.C.  
Asbury Jax Management L.L.C.  
Asbury Jax PB Chev, L.L.C.  
Asbury-Deland Imports, L.L.C.  
Avenues Motors, Ltd.  
Bayway Financial Services, L.P.  
BFP Motors L.L.C.  
C&O Properties, Ltd.  
CFP Motors, Ltd.  
CH Motors, Ltd.  
CHO Partnership, Ltd.  
CK Chevrolet L.L.C.  
CK Motors LLC  
CN Motors, Ltd.  
Coggin Automotive Corp.  
Coggin Cars L.L.C.  
Coggin Chevrolet L.L.C.  
Coggin Management, L.P.  
CP-GMC Motors, Ltd.  
CSA Imports L.L.C.  
HFP Motors L.L.C.  
KP Motors L.L.C.  
Asbury Automotive Mississippi, L.L.C.  
Asbury MS Chev, L.L.C.  
Asbury MS Wimber L.L.C.  
Asbury MS Yazoo L.L.C.  
Asbury No Cal Niss L.L.C.

Asbury Sacramento Imports L.L.C.  
Asbury So Cal DC L.L.C.  
Asbury So Cal Hon L.L.C.  
Asbury So Cal Niss L.L.C.  
Asbury Automotive North Carolina Dealership Holdings L.L.C.  
Asbury Automotive North Carolina L.L.C.  
Asbury Automotive North Carolina Management L.L.C.  
Asbury Automotive North Carolina Real Estate Holdings L.L.C.  
Camco Finance II L.L.C.  
Camco Finance L.L.C.  
Crown Acura/Nissan, LLC  
Crown Battleground, LLC  
Crown CHH L.L.C.  
Crown CHO L.L.C.

Crown CHV L.L.C.  
Crown Dodge, LLC  
Crown FDO L.L.C.  
Crown FFO Holdings L.L.C.  
Crown FFO L.L.C.  
Crown Fordham L.L.C.  
Crown GAC L.L.C.  
Crown GAU L.L.C.  
Crown GBM L.L.C.  
Crown GCA L.L.C.  
Crown GCH L.L.C.  
Crown GDO L.L.C.  
Crown GH0 L.L.C.  
Crown GKI L.L.C.  
Crown GMI L.L.C.  
Crown GNI L.L.C.  
Crown GPG L.L.C.  
Crown GVO L.L.C.  
Crown Honda, LLC  
Crown Honda-Volvo, LLC  
Crown Mitsubishi, LLC  
Crown Motorcar Company L.L.C.  
Crown Raleigh L.L.C.  
Crown RIA L.L.C.  
Crown RIB L.L.C.  
Crown Royal Pontiac, LLC  
Crown SJC L.L.C.  
Crown SNI L.L.C.  
RER Properties, LLC  
RWIJ Properties, LLC  
Asbury Automotive Oregon L.L.C.  
Asbury Automotive Oregon Management L.L.C.  
Thomason Frd L.L.C.  
Thomason Auto Credit Northwest, Inc.  
Thomason Dam L.L.C.  
Thomason Hon L.L.C.  
Thomason Hund L.L.C.  
Thomason Maz L.L.C.  
Thomason Niss L.L.C.  
Thomason Outfitters L.L.C.  
Thomason Pontiac-GMC L.L.C.  
Thomason Suzu L.L.C.  
Thomason TY L.L.C.  
Thomason Zuk L.L.C.  
Asbury Automotive St. Louis, L.L.C.  
Asbury St. Louis Lex L.L.C.  
Asbury St. Louis Cadillac L.L.C.  
Asbury St. Louis Gen L.L.C.  
Asbury Automotive Brandon, L.P.

Asbury Automotive Tampa GP L.L.C.  
Asbury Automotive Tampa, L.P.  
Asbury Tampa Management L.L.C.  
JC Dealer Systems LLC (formerly known as Dealer Profit Systems L.L.C.)  
Precision Computer Services, Inc.  
Precision Enterprises Tampa, Inc.  
Precision Infiniti, Inc.  
Precision Motorcars, Inc.  
Precision Nissan, Inc.  
Tampa Hund, L.P.  
Tampa Kia, L.P.  
Tampa LM, L.P.  
Tampa Mit, L.P.  
Tampa Suzu, L.P.  
WMZ Brandon Motors, L.P.  
WMZ Motors, L.P.  
WTY Motors, L.P.  
Asbury Automotive Texas Holdings L.L.C.  
Asbury Automotive Texas L.L.C.  
Asbury Automotive Texas Real Estate Holdings L.P.  
Asbury Texas Management L.L.C.  
McDavid Auction, L.P.  
McDavid Austin-Acra, L.P.  
McDavid Frisco-Hon, L.P.  
McDavid Grande, L.P.  
McDavid Houston-Hon, L.P.  
McDavid Houston-Kia, L.P.  
McDavid Houston-Niss, L.P.  
McDavid Irving-Hon, L.P.  
McDavid Irving-PB&G, L.P.  
McDavid Irving-Zuk, L.P.  
McDavid Outfitters, L.P.  
McDavid Plano-Acra, L.P.  
Plano Lincoln-Mercury, Inc.

[Face of 144A Note]

CUSIP: 043436AE4  
 ISIN: US043436AE40  
 Exchange Note CUSIP:  
 Exchange Note ISIN:  
 CUSIP for unrestricted notes:  
 ISIN for unrestricted notes:

7.625% Senior Subordinated Notes due 2017

No. 144A-[1]

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ASBURY AUTOMOTIVE GROUP, INC.

promises to pay to \_\_\_\_\_, or registered assigns, the principal sum of \_\_\_\_\_ Dollars on March 15, 2017.

Interest Payment Dates: March 15 and September 15 of each year until maturity and the Maturity Date

Record Dates: March 1 with respect to March 15 Interest Payment Dates, September 1 with respect to September 15 Interest Payment Dates and March 1, 2017 with respect to interest payable at maturity.

Dated:

ASBURY AUTOMOTIVE GROUP, INC.

By: \_\_\_\_\_

Name:

Title:

This is one of the Notes referred to in the within mentioned Indenture:

Dated:

THE BANK OF NEW YORK,  
 As Trustee

By: \_\_\_\_\_  
 Authorized Signatory

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[Back of Note]

7.625% Senior Subordinated Notes due 2017

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. INTEREST. Asbury Automotive Group, Inc., a Delaware corporation (the “Company”), promises to pay interest on the principal amount of this Note at 7.625% per annum from March 26, 2007 until maturity and shall pay the Special Interest payable pursuant to Section 2 of the Registration Rights Agreement referred to below. The Company will pay interest and Special Interest semi-annually in arrears on March 15 and September 15 of each year and on maturity, or if any such day is not a Business Day, on the next succeeding Business Day (each an “Interest Payment Date”). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided, further*, that the first Interest Payment Date shall be September 15, 2007. The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Special Interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

2. METHOD OF PAYMENT. The Company will pay interest on the Notes (except defaulted interest) and Special Interest to the Persons who are registered Holders of Notes at the close of business on (i) the 1<sup>st</sup> of March next preceding each March 15 Interest Payment Date; (ii) the 1<sup>st</sup> of September next preceding each September 15 Interest Payment Date; and (iii) March 1, 2017 with respect to interest payable at maturity even if such Notes

are canceled after such record date and on or before such Interest Payment Date, except as provided in of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium and Special Interest, if any, and interest at the office or agency of the Company maintained for such purpose within the City and State of New York, or, at the option of the Company, payment of interest and premium or Special Interest, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of, and interest, premium and Special Interest, if any, on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. PAYING AGENT AND REGISTRAR. Initially, The Bank of New York, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may

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change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. INDENTURE. The Company issued the Notes under an Indenture dated as of March 26, 2007 ("Indenture") between the Company, the Guarantors thereto and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code §§ 77aaa-77bbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Company shall be entitled, subject to its compliance with Section 4.09 of the Indenture, to issue additional Notes pursuant to Section 2.14 of the Indenture.

5. OPTIONAL REDEMPTION.

(a) Except as set forth in subparagraphs (b) and (c) of this Paragraph 5, the Company shall not have the option to redeem the Notes prior to March 15, 2012. Thereafter, the Company shall have the option to redeem all or part of the Notes upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and Special Interest thereon, if any, to the applicable redemption date, if redeemed during the twelve-month period beginning on March 15 of the years indicated below:

<u>Year</u>	<u>Percentage</u>
2012	103.813%
2013	102.542%
2014	101.271%
2015 and thereafter	100.000%

(b) Notwithstanding the provisions of subparagraph (a) of this Paragraph 5, at any time, after the date hereof, on or prior to March 15, 2010, the Company may on any one or more occasions redeem up to 35% of the aggregate principal amount of the Notes (which includes Additional Notes) issued under the Indenture at a redemption price equal to 107.625% of the aggregate principal amount thereof, plus accrued and unpaid interest and Special Interest thereon, if any, to the redemption date with the net cash proceeds of one or more Equity Offerings *provided* that:

(i) at least 65% of the aggregate principal amount of the Notes originally issued remains outstanding immediately after the occurrence of such redemption (excluding Notes held by the Company or any of its Subsidiaries); and

(ii) the redemption occurs within 45 days of the date of the closing of such Equity Offering.

(c) At any time prior to March 15, 2012, all or part of the Notes may also be redeemed at the option of the Company, upon not less than 30 nor more than 60 days prior notice mailed by first-class mail to each Holder's registered address, at a redemption price equal to 100% of the principal amount thereof plus the Applicable Premium as of, and accrued and unpaid interest and Special Interest thereon, if any, to the Redemption Date.

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6. MANDATORY REDEMPTION.

Except as set forth in paragraph 7 below, the Company shall not be required to make mandatory redemption payments with respect to the Notes.

7. REPURCHASE AT OPTION OF HOLDER.

(a) If there is a Change of Control, the Company shall be required to make an offer (a "Change of Control Offer") to repurchase all or any part (equal to an integral multiple of \$1,000) of each Holder's Notes at a purchase price equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest and Special Interest thereon, if any, to the date of purchase (the "Change of Control Payment"); *provided* that, if only a portion of the Notes of the Holders is to be repurchased, the unrepurchased portion of the Notes of any Holder must be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof. Within 30 days following any Change of Control, the Company shall mail a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture.

(b) If the Company or a Restricted Subsidiary consummates any Asset Sales, within five days of each date on which the aggregate amount of Excess Proceeds exceeds \$10.0 million, the Company shall commence an offer to all Holders of Notes (as "Asset Sale Offer") pursuant to Section 3.09 of the Indenture to purchase the maximum principal amount of Notes (including any Additional Notes) that may be purchased out of the Excess Proceeds

at an offer price in cash in an amount equal to 100% of the principal amount thereof plus accrued and unpaid interest thereon, if any, to the date fixed for the closing of such offer, in accordance with the procedures set forth in the Indenture. To the extent that the aggregate amount of Notes (including any Additional Notes) tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Company (or such Subsidiary) may use such deficiency for general corporate purposes. If the aggregate principal amount of Notes surrendered by Holders thereof exceeds the amount of Excess Proceeds, the Trustee shall select the Notes to be purchased on a pro rata basis. Holders of Notes that are the subject of an offer to purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such Notes purchased by completing the form entitled “Option of Holder to Elect Purchase” on the reverse of the Notes.

8. NOTICE OF REDEMPTION. Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date (except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with Article 8 or Article 12 of the Indenture) to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$2,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed; *provided* that, if only a portion of the Notes of a Holder is to be redeemed, the unredeemed portion of the Notes of such Holder must be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess thereof. On and after the redemption date interest ceases to accrue on Notes or portions thereof called for redemption.

9. DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder

to pay any taxes and fees required by law or permitted by the Indenture; *provided* that no service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange; *provided, however*, that the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.09, 4.10, 4.15 and 9.05 of the Indenture). The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

10. PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

11. AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in principal amount of the then outstanding Notes and Additional Notes, if any, voting as a single class, and any existing default or compliance with any provision of the Indenture, the Subsidiary Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes and Additional Notes, if any, voting as a single class. Without the consent of any Holder of a Note, the Indenture, the Subsidiary Guarantees or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency or to make a modification of a formal, minor or technical nature or to correct a manifest error, to provide for uncertificated Notes in addition to or in place of certificated Notes, to comply with the covenant relating to mergers, consolidations and sales of assets, to provide for the assumption of the Company's or Guarantor's obligations to Holders of the Notes in case of a merger or consolidation or sale of all or substantially all of the Company's assets, to add Guarantees with respect to the Notes or to secure the Notes, to add to the covenants of the Company or any Guarantor for the benefit of the Holders of the Notes or surrender any right or power conferred upon the Company or any Guarantor, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act, to evidence and provide for the acceptance and appointment under the Indenture of a successor trustee pursuant to the requirements thereof, to provide for the issuance of exchange or private exchange notes or to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture.

12. DEFAULTS AND REMEDIES. Events of Default include: (i) default for 30 days in the payment when due of interest on, or Special Interest, if any, with respect to, the Notes, whether or not prohibited by Article 10 of the Indenture; (ii) default in payment when due of principal of, or premium, if any, on the Notes when the same becomes due and payable at maturity, upon redemption (including in connection with an offer to purchase) or otherwise, whether or not prohibited by Article 10 of the Indenture; (iii) failure by the Company to comply with Section 5.01 of the Indenture; (iv) failure by the Company or any of its Restricted Subsidiaries to comply with Sections 4.07, 4.09, 4.10 or 4.15 of the Indenture for a period of 30 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate

principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class; (v) failure by the Company or any of its Restricted Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in principal amount of the Notes (including Additional Notes, if any) then outstanding voting as a single class to observe or perform any other covenant or other agreement in the Indenture; (vi) default under certain other agreements relating to Indebtedness of the Company or any of its Restricted Subsidiaries, which default is caused by a failure to pay principal at its stated final maturity (after giving effect to any applicable grace period provided in such Indebtedness) (a “Payment Default”) or results in the acceleration of such Indebtedness prior to its express maturity and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$15.0 million or more; (vii) certain final judgments for the payment of money that remain not paid, discharged or stayed for a period of 60 days, *provided* that the aggregate of all such not paid, discharged or stayed judgments exceeds \$15.0 million; (viii) certain events of bankruptcy or insolvency with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries as specified in clauses (i) and (j) of Section 6.01 of the Indenture; and (ix) except as permitted by the Indenture, any Subsidiary Guarantee shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect or any Guarantor or any Person acting on its behalf shall deny or disaffirm its obligations under such Guarantor's Subsidiary Guarantee. If any Event of Default (other than an Event of Default specified in clause (i) or (j) of Section 6.01 of the Indenture with

respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries) occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Upon any such declaration the Notes shall become due and payable immediately. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency as specified in clauses (i) and (j) of Section 6.01 of the Indenture with respect to the Company or any of its Restricted Subsidiaries that are, alone or in combination, Significant Subsidiaries, all outstanding Notes will become due and payable immediately without further action or notice. Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal of, premium, if any, or interest on, any Note) if and so long as a committee of its Responsible Officers in good faith determines that withholding notice is in the interests of the Holders of the Notes. The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default and its consequences under the Indenture except a continuing Default in the payment of principal of, Special Interest, if any, or interest on, the Notes (other than non-payment of principal of or interest on or Special Interest, if any, on the Notes that become due solely because of the acceleration of the Notes) (provided that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

13. TRUSTEE DEALINGS WITH COMPANY. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

14. NO RECOURSE AGAINST OTHERS. A director, officer, employee, incorporator or stockholder, of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

15. AUTHENTICATION. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

16. ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

17. ADDITIONAL RIGHTS OF HOLDERS OF RESTRICTED GLOBAL NOTES AND RESTRICTED DEFINITIVE NOTES. In addition to the rights provided to Holders of Notes under the Indenture, Holders of Restricted Global Notes and Restricted Definitive Notes shall have all the rights set forth in the Exchange and Registration Rights Agreement dated as of March 26, 2007, between the Company and the parties named on the signature pages thereof or, in the case of Additional Notes, Holders of Restricted Global Notes and Restricted Definitive Notes shall have the rights set forth in one or more registration rights agreements, if any, among the Company and the other parties thereto relating to rights given by the Company to the purchasers of Additional Notes (collectively, the “Registration Rights Agreement”).

18. CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Registration Rights Agreement. Requests may be made to:

Asbury Automotive Group, Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017  
Attention: Chief Financial Officer

## ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

\_\_\_\_\_  
(Insert assignee’s legal name)

\_\_\_\_\_  
(Insert assignee’s Social Security or Tax Identification Number)



and irrevocably appoint \_\_\_\_\_  
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: \_\_\_\_\_

\_\_\_\_\_  
Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee\*: \_\_\_\_\_

\_\_\_\_\_  
\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

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#### OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.15 of the Indenture check the appropriate box below.

☐ Section 4.10 ☐ Section 4.15

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.15 of the Indenture, state the amount you elect to have purchased:

\$ \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)  
Tax Identification No.: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\_\_\_\_\_  
\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

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#### SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Note Custodian

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FOURTH SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of March 15, 2007, among the Subsidiaries of the Company (as defined below) listed on Schedule II hereto (the "Guaranteeing Subsidiaries"), Asbury Automotive Group, Inc., a Delaware corporation (the "Company"), the other Guarantors (as defined in the Indenture referred to herein) and The Bank of New York, as trustee under the indenture referred to below (the "Trustee").

W I T N E S S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture, dated as of December 23, 2003 (as amended, supplemented and otherwise modified by the First Supplemental Indenture dated as of January 21, 2004, by the Second Supplemental Indenture dated as of December 7, 2004 and by the Third Supplemental Indenture dated as of September 30, 2005, the "Indenture"), providing for the issuance of 8% Senior Subordinated Notes due 2014 (the "Notes");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiaries shall execute and deliver to the Trustee a supplemental indenture pursuant to which each Guaranteeing Subsidiary shall unconditionally guarantee all of the Company's Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "Subsidiary Guarantee"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company, the Guaranteeing Subsidiaries, the other Guarantors and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. AGREEMENT TO GUARANTEE. Each Guaranteeing Subsidiary hereby agrees as follows:

(a) Along with all Guarantors named in the Indenture, to jointly and severally Guarantee to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, the Notes or the obligations of the Company hereunder or thereunder, that:

(i) the principal of and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and

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interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors shall be jointly and severally obligated to pay the same immediately.

(b) The obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.

(c) The following is hereby waived: diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever.

(d) This Subsidiary Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes and the Indenture, and such Guaranteeing Subsidiary accepts all obligations of a Guarantor under the Indenture.

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

(f) Such Guaranteeing Subsidiary shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby.

(g) As between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 of the Indenture for the purposes of this Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 of the Indenture, such obligations (whether or

not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Subsidiary Guarantee.

(h) The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Guarantee.

(i) Pursuant to Section 11.03 of the Indenture, after giving effect to any maximum amount and any other contingent and fixed liabilities that are relevant under any applicable Bankruptcy or fraudulent conveyance laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under Article 11 of the Indenture, this new Subsidiary Guarantee shall be limited to the maximum amount permissible such that the obligations of such Guarantor under this Subsidiary Guarantee will not constitute a fraudulent transfer or conveyance.

3. EXECUTION AND DELIVERY. Each Guaranteeing Subsidiary agrees that the Subsidiary Guarantees shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Subsidiary Guarantee.

4. GUARANTEEING SUBSIDIARIES MAY CONSOLIDATE, ETC. ON CERTAIN TERMS.

(a) No Guaranteeing Subsidiary may sell or otherwise dispose of all or substantially all of its assets to or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another corporation, Person or entity whether or not affiliated with such Guarantor unless:

either

(i)

(A) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger, if other than such Guarantor, assumes all the obligations of that Guarantor under the Indenture, its Guarantee and, if the Exchange Offer has not been consummated or Special Interest remains due and owing, under the Registration Rights Agreement pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee and completes all other required documentation; or

(B) the Net Proceeds, if any, of such sale or other disposition are applied in accordance with the provisions of described in the third paragraph of Section 4.10 of this Indenture; and

(ii) immediately after giving effect to such transaction, no Default exists.

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(b) In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor corporation, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Subsidiary Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of the Indenture to be performed by the Guarantor, such successor corporation shall succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor corporation thereupon may cause to be signed any or all of the Subsidiary Guarantees to be endorsed upon all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee. All the Subsidiary Guarantees so issued shall in all respects have the same legal rank and benefit under the Indenture as the Subsidiary Guarantees theretofore and thereafter issued in accordance with the terms of the Indenture as though all of such Subsidiary Guarantees had been issued at the date of the execution hereof.

(c) Except as set forth in Articles 4 and 5 and Section 11.05 of Article 11 of the Indenture, and notwithstanding clauses (a) and (b) above, nothing contained in the Indenture or in any of the Notes shall prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or shall prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

5. RELEASES.

(a) In the event of a sale or other disposition of all of the assets of any Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all to the capital stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transaction) a Restricted Subsidiary of the Company, then such Guarantor (in the event of a sale or other disposition, by way of merger, consolidation or otherwise, of all of the capital stock of such Guarantor) or the corporation acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such Guarantor) will be released and relieved of any obligations under its Subsidiary Guarantee; provided that the Net Proceeds, if any, of such sale or other disposition are applied in accordance with the applicable provisions of the Indenture, including without limitation Section 4.10 of the Indenture. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of the Indenture, including without limitation Section 4.10 of the Indenture, the Trustee shall execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee.

(b) Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under the Indenture as provided in Article 11 of the Indenture.

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6. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, incorporator, stockholder or agent of any Guaranteeing Subsidiary, as such, shall have any liability for any obligations of the Company or any Guaranteeing Subsidiary under the Notes, any Subsidiary Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

7. INDENTURE. Except as expressly amended hereby, the Indenture shall continue in full force and effect in accordance with the provisions thereof as in existence on the date hereof. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

8. NEW YORK LAW TO GOVERN. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

9. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

10. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

11. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guarantors and the Company.

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IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

SIGNATURES

ASBURY AUTOMOTIVE GROUP, INC.

By: /s/ J. Gordon Smith

Name: J. Gordon Smith

Title: Senior Vice President & CFO

EACH GUARANTOR LISTED ON SCHEDULE I  
HERETO

By: /s/ J. Gordon Smith

Name: J. Gordon Smith

Title: Vice President of each Limited  
Liability Company or Corporation,  
or the General Partner of each  
Limited Partnership listed on the  
attached Schedules

EACH GUARANTEEING SUBSIDIARY LISTED ON  
SCHEDULE II HERETO

By: /s/ J. Gordon Smith

Name: J. Gordon Smith

Title: Vice President of each Limited  
Liability Company or Corporation,  
or the General Partner of each  
Limited Partnership listed on the  
attached Schedules

THE BANK OF NEW YORK

By: /s/ Carlos R. Luciano

Name: Carlos R. Luciano

Title: Vice President

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## SCHEDULE OF GUARANTORS

The following schedule lists each Guarantor as of September 30, 2005, the date of the Second Supplemental Indenture, omitting certain entities that were dissolved, sold or that were divested of all or substantially all assets, after that date:

Asbury Automotive Group Holdings, Inc.  
 Asbury Automotive Group L.L.C.  
 Asbury Automotive Management L.L.C.  
 Asbury Automotive Financial Services, Inc.  
 Asbury Automotive Arkansas L.L.C.  
 Asbury Automotive Arkansas Dealership Holdings L.L.C.  
 NP FLM L.L.C.  
 NP VKW L.L.C.  
 Premier NSN L.L.C.  
 NP MZD L.L.C.  
 Prestige Bay L.L.C.  
 Premier PON L.L.C.  
 Escude NN L.L.C.  
 Escude M L.L.C.  
 Escude NS L.L.C.  
 Escude MO L.L.C.  
 Asbury MS Metro L.L.C.  
 Asbury MS Gray-Daniels L.L.C.  
 Asbury Automotive Atlanta LLC  
 Asbury Atlanta HON LLC  
 Asbury Atlanta Chevrolet LLC  
 Asbury Atlanta AC LLC  
 Atlanta Real Estate Holdings LLC  
 Asbury Atlanta Jaguar L.L.C.  
 Spectrum Insurance Services L.L.C.  
 Asbury Atlanta AU L.L.C.  
 Asbury Atlanta Infiniti L.L.C.  
 Asbury Automotive Jacksonville GP, L.L.C.  
 Asbury Automotive Jacksonville, L.P.  
 Asbury Jax Holdings, L.P.  
 Asbury Jax Management L.L.C.  
 Coggin Automotive Corp  
 CP-GMC Motors Ltd  
 CH Motors Ltd  
 CN Motors Ltd  
 CFP Motors Ltd  
 Avenues Motors Ltd  
 CHO Partnership Ltd  
 ANL, L.P.

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Bayway Financial Services, L.P.  
 Coggin Management, L.P.  
 C&O Properties Ltd  
 Asbury Automotive Central Florida, L.L.C.  
 CK Chevrolet L.L.C.  
 CK Motors, L.L.C.  
 Asbury Automotive Deland, L.L.C.  
 AF Motors, L.L.C.  
 ALM Motors, L.L.C.  
 Asbury Deland Imports 2 LLC  
 Asbury-Deland Imports LLC  
 Coggin Chevrolet L.L.C.  
 CSA Imports L.L.C.  
 KP Motors L.L.C.  
 HFP Motors L.L.C.  
 Asbury Automotive Mississippi L.L.C.  
 Crown GPG L.L.C.  
 Crown GBM L.L.C.  
 Crown GAU L.L.C.  
 Crown GKI L.L.C.  
 Crown GMI L.L.C.  
 Crown GDO L.L.C.  
 Crown GNI L.L.C.  
 Crown GH0 L.L.C.

Crown GAC L.L.C.  
Crown CHH L.L.C.  
Crown CHV L.L.C.  
Crown RIA L.L.C.  
Crown RIB L.L.C.  
Crown Motorcar Company L.L.C.  
Crown GVO L.L.C.  
Crown FFO L.L.C.  
Asbury Automotive North Carolina L.L.C.  
Asbury Automotive North Carolina Management L.L.C.  
Asbury Automotive North Carolina Real Estate Holdings L.L.C.  
Asbury Automotive North Carolina Dealership Holdings L.L.C.  
Crown Raleigh L.L.C.  
Crown Fordham L.L.C.  
Camco Finance L.L.C.  
Camco Finance II L.L.C.  
Crown FFO Holdings L.L.C.  
Crown FDO L.L.C.  
Crown Acura/Nissan L.L.C.

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Crown Battleground, LLC  
Crown Dodge, LLC  
Crown Honda, LLC  
Crown Honda-Volvo, LLC  
Crown Mitsubishi, LLC  
Crown Royal Pontiac, LLC  
RER Properties, LLC  
RWIJ Properties, LLC  
Thomason FRD LLC  
Thomason HON LLC  
Thomason NISS LLC  
Thomason HUND LLC  
Thomason MAZ LLC  
Thomason ZUK LLC  
Thomason DAM LLC  
Damerow Ford Co.  
Asbury Automotive Oregon LLC  
Asbury Automotive Oregon Management LLC  
Thomason Auto Credit Northwest, Inc.  
Thomason Outfitters L.L.C.  
Thomason SUZU L.L.C.  
Asbury Automotive St. Louis L.L.C.  
Asbury St. Louis Cadillac L.L.C.  
Asbury St. Louis Gen L.L.C.  
Asbury Automotive Tampa GP L.L.C.  
Asbury Automotive Tampa, L.P.  
Asbury Tampa Management L.L.C.  
Tampa Hund L.P.  
Tampa KIA L.P.  
Tampa Mit L.P.  
Tampa Suzu L.P.  
WMZ Motors L.P.  
WMZ Brandon Motors L.P.  
Asbury Automotive Brandon L.P.  
Precision Enterprises Tampa, Inc.  
Precision Nissan, Inc.  
Precision Computer Services, Inc.  
Precision Motorcars, Inc.  
Precision Infiniti, Inc.  
Dealer Profit Systems L.L.C.  
McDavid Plano - Acra LP  
McDavid Houston - Kia LP  
McDavid Austin - Acra LP  
McDavid Irving - Hon LP  
McDavid Irving - PB&G LP

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McDavid Houston - Niss LP  
Plano Lincoln-Mercury, Inc  
McDavid Irving-Zuk, LP  
Asbury Texas Management, LLC  
McDavid Grande, LP  
McDavid Outfitters, LP  
McDavid Auction, L.P.  
Asbury Automotive Texas, LLC  
Asbury Automotive Texas Holdings, LLC  
Asbury Automotive Texas Real Estate Holdings, LP (formerly “McDavid Communications, LP”)  
McDavid Frisco-Hon, L.P.  
Crown GCA L.L.C.  
Crown GCH L.L.C.  
Crown CHO L.L.C.  
Asbury Automotive Fresno L.L.C.  
Asbury Fresno Imports L.L.C.  
Asbury MS Yazoo L.L.C.  
Asbury Atlanta VL L.L.C.  
Asbury Atlanta BM L.L.C.  
Asbury Automotive Southern California L.L.C.  
Crown SNI L.L.C.  
Crown SJC L.L.C.  
Asbury Arkansas Hund L.L.C.  
BFP Motors L.L.C.  
Asbury So Cal Hon L.L.C.  
Asbury So Cal DC L.L.C.  
Asbury Sacramento Imports L.L.C.  
Asbury So Cal Niss L.L.C.  
Asbury No Cal Niss L.L.C.  
Spirit Automotive Group L.L.C.  
McDavid Houston-Hon, L.P.  
Asbury MS Chev L.L.C.  
Asbury Automotive South L.L.C.  
Asbury Automotive Florida L.L.C.  
Asbury Automotive West L.L.C.  
Asbury AR Niss L.L.C.  
Asbury Jax PB Chev L.L.C.  
Asbury Jax K L.L.C.

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## **Schedule II**

### **SCHEDULE OF GUARANTEEING SUBSIDIARIES**

The following schedule lists each Guaranteeing Subsidiary becoming a Guarantor under the Indenture pursuant to the Supplemental Indenture to which this Schedule II is attached:

Asbury Jax AC, L.L.C.  
Asbury MS Wimber LLC  
Tampa LM, LP  
Thomason Pontiac-GMC LLC  
Asbury Atlanta LEX, LLC  
Asbury St. Louis Lex L.L.C.  
Coggin Cars L.L.C.  
Escude T L.L.C.  
Prestige TOY L.L.C.  
Thomason TY LLC  
WTY Motors L.P.

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## **Schedule III**

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## Asbury Automotive Group, Inc.

## 3.00% Senior Subordinated Convertible Notes due 2012

**Unconditionally Guaranteed as to the  
Payment of Principal, Premium,  
if any, and Interest by the  
Subsidiary Guarantors**

**Registration Rights Agreement**

**March 16, 2007**

Goldman, Sachs & Co.,  
Deutsche Bank Securities Inc.  
As representatives of the several Purchasers  
named in Schedule I to the Purchase Agreement  
c/o Goldman, Sachs & Co.  
85 Broad Street  
New York, New York 10004

Ladies and Gentlemen:

Asbury Automotive Group, Inc., a Delaware corporation (the “Company”), proposes to issue and sell to the Purchasers (as defined herein) upon the terms set forth in the Purchase Agreement (as defined herein) its 3.00% Senior Subordinated Convertible Notes due 2012, which are unconditionally guaranteed by the Subsidiary Guarantors (as defined herein). As an inducement to the Purchasers to enter into the Purchase Agreement and in satisfaction of a condition to the obligations of the Purchasers thereunder, the Company and the Subsidiary Guarantors, jointly and severally, agree with the Purchasers for the benefit of Holders (as defined herein) from time to time of the Registrable Securities (as defined herein) as follows:

1. *Definitions.*

(a) Capitalized terms used herein without definition shall have the meanings ascribed to them in the Purchase Agreement. As used in this Agreement, the following defined terms shall have the following meanings:

“*Affiliate*” of any specified person means any other person which, directly or indirectly, is in control of, is controlled by, or is under common control with such specified person. For

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purposes of this definition, control of a person means the power, direct or indirect, to direct or cause the direction of the management and policies of such person whether by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“*Agreement*” means this Registration Rights Agreement.

“*Closing Date*” means the First Time of Delivery as defined in the Purchase Agreement.

“*Commission*” means the United States Securities and Exchange Commission, or any other federal agency at the time administering the Exchange Act or the Securities Act, whichever is the relevant statute for the particular purpose.

“*Common Stock*” means the Company’s common stock, par value \$.01 per share together with any associated preferred share purchase rights.

“*DTC*” means The Depository Trust Company.

“*Effective Date*” has the meaning assigned thereto in Section 2(b)(i) hereof.

“*Effective Failure*” has the meaning assigned thereto in Section 7(b) hereof.

“*Effectiveness Period*” has the meaning assigned thereto in Section 2(b)(i) hereof.

“*Effective Time*” means the time at which the Commission declares the Shelf Registration Statement effective or at which the Shelf Registration Statement otherwise becomes effective (or, if previously effective, designated).

“*Electing Holder*” has the meaning assigned thereto in Section 3(a)(iii) hereof.

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

“*Holder*” means any person that is the record owner of Registrable Securities (and includes any person that has a beneficial interest in any Registrable Security in book-entry form).

“*Indenture*” means the Indenture, dated as of March 16, 2007, between the Company, the Subsidiary Guarantors and The Bank of New York, as trustee, relating to the Securities, as amended and supplemented from time to time in accordance with its terms.



“*Managing Underwriters*” means the investment banker or investment bankers and manager or managers that shall administer an underwritten offering, if any, conducted pursuant to Section 6 hereof.

“*NASD Rules*” means the Rules of the National Association of Securities Dealers, Inc., as amended from time to time.

“*Notice and Questionnaire*” means a Notice of Registration Statement and Selling Securityholder Questionnaire substantially in the form of Appendix A hereto.

The term “*person*” means an individual, partnership, corporation, trust or unincorporated organization, or a government or agency or political subdivision thereof.

“*Prospectus*” means the prospectus (including, without limitation, any preliminary prospectus, any final prospectus and any prospectus that discloses information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A or Rule 430B under the Securities Act) included in the Shelf Registration Statement, as amended or supplemented by any prospectus supplement with respect to the terms of the offering of any portion of the Registrable Securities covered by the Shelf Registration Statement and by all other amendments and supplements to such prospectus, including all material incorporated by reference in such prospectus and all documents filed after the date of such prospectus by the Company and the Subsidiary Guarantors under the Exchange Act and incorporated by reference therein.

“*Purchase Agreement*” means the Purchase Agreement, dated March 12, 2007, among the Purchasers, the Company and the Subsidiary Guarantors relating to the Securities.

“*Purchasers*” means the Purchasers named in Schedule I to the Purchase Agreement.

“*Registrable Securities*” means all or any portion of the Securities issued from time to time under the Indenture in registered form and the shares of Common Stock issuable upon conversion, repurchase or redemption of such Securities; *provided, however*, that a security ceases to be a Registrable Security when it is no longer a Restricted Security.

“*Registration Default*” has the meaning assigned thereto in Section 7(a) hereof.

“*Restricted Security*” means any Security or share of Common Stock issuable upon conversion thereof except any such Security or share of Common Stock that (i) has been effectively registered under the Securities Act and sold in a manner contemplated by the Shelf Registration Statement, (ii) has been transferred in compliance with Rule 144 under the Securities Act (or any successor provision thereto) or is transferable pursuant to paragraph (k) of such Rule 144 (or any successor provision thereto) or (iii) has otherwise been transferred and a new Security or share of Common Stock not subject to transfer restrictions under the Securities Act has been delivered by or on behalf of the Company in accordance with the Indenture.

“*Rules and Regulations*” means the published rules and regulations of the Commission promulgated under the Securities Act or the Exchange Act, as in effect at any relevant time.

“*Securities*” mean, collectively, the 3.00% Senior Subordinated Convertible Notes due 2012 of the Company to be issued and sold to the Purchasers, and securities issued in exchange therefor or in lieu thereof pursuant to the Indenture. Each Security is entitled to the benefit of each guarantee provided for in the Indenture (the “*Subsidiary Guarantees*”) and,

unless the context otherwise requires, any reference herein to a “Security” or a “Registrable Security” shall include a reference to the related Subsidiary Guarantees.

“*Securities Act*” means the United States Securities Act of 1933, as amended.

“*Shelf Registration*” means a registration effected pursuant to Section 2 hereof.

“*Shelf Registration Statement*” means a “shelf” registration statement filed or designated under the Securities Act providing for the registration of, and the sale on a continuous or delayed basis by the Holders of, all of the Registrable Securities pursuant to Rule 415 or Rule 430B under the Securities Act and/or any similar rule that may be adopted by the Commission, filed or designated by the Company and the Subsidiary Guarantors pursuant to the provisions of Section 2 of this Agreement, including the Prospectus contained therein, any amendments and supplements to such registration statement, including post-effective amendments, and all exhibits and all material incorporated by reference in such registration statement, and including all information deemed to be a part thereof pursuant to Rule 430A, Rule 430B or Rule 430C.

“*Special Interest*” has the meaning assigned thereto in Section 7(a) hereof.

“*Subsidiary Guarantors*” has the meaning assigned thereto in the Indenture.

“*Suspension Period*” has the meaning assigned thereto in Section 2(c) hereof.

“*Trust Indenture Act*” means the Trust Indenture Act of 1939, or any successor thereto, and the rules, regulations and forms promulgated thereunder, as the same shall be amended from time to time.

The term “*underwriter*” means any underwriter of Registrable Securities in connection with an offering thereof under a Shelf Registration Statement.

(b) Wherever there is a reference in this Agreement to a percentage of the “principal amount” of Registrable Securities or to a percentage of Registrable Securities, Common Stock shall be treated as representing the principal amount of Securities that was surrendered for conversion or exchange in order to receive such number of shares of Common Stock.

## 2. *Shelf Registration.*

(a) The Company and the Subsidiary Guarantors shall use their reasonable best efforts to file with the Commission, or otherwise designate an existing Shelf Registration Statement filed with the Commission, no later than 120 calendar days following the Closing Date, a Shelf Registration Statement relating to the offer and sale of the Registrable Securities by the Holders from time to time in accordance with the methods of distribution elected by such Holders and set forth in such Shelf Registration Statement and, thereafter, the Company and the Subsidiary Guarantors, jointly and severally, agree to use its reasonable best efforts to cause such Shelf Registration Statement to be declared effective (or, if previously effective, designated) under the Securities Act no later than 180 calendar days following the Closing Date;

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*provided, however*, that the Company and the Subsidiary Guarantors may, upon written notice to all Holders, postpone having the Shelf Registration Statement declared effective (or, if previously effective, designated) for a reasonable period not to exceed 90 days if the Company or any of the Subsidiary Guarantors possesses material non-public information, the disclosure of which would have a material adverse effect on the Company and its subsidiaries taken as a whole; *provided, further, however*, that no Holder shall be entitled to be named as a selling securityholder in the Shelf Registration Statement or to use the Prospectus forming a part thereof for resales of Registrable Securities unless such Holder is an Electing Holder who agrees to be bound by all of the provisions of this Agreement applicable to such Holder.

(b) The Company and the Subsidiary Guarantors shall use their reasonable best efforts:

(i) to keep the Shelf Registration Statement continuously effective under the Securities Act in order to permit the Prospectus forming a part thereof to be usable by Holders until the earliest of (1) the sale of all outstanding Registrable Securities registered under the Shelf Registration Statement; (2) the expiration of the period referred to in Rule 144(k) of the Securities with respect to all Registrable Securities held by Persons that are not Affiliates of the Company; and (3) two years from the date (the “Effective Date”) such Shelf Registration Statement is declared effective (or, if previously effective, designated) (such period being referred to herein as the “Effectiveness Period”);

(ii) after the Effective Time of the Shelf Registration Statement, promptly upon the request of any Holder of Registrable Securities that is not then an Electing Holder, to take any action reasonably necessary to enable such Holder to use the Prospectus forming a part thereof for resales of Registrable Securities, including, without limitation, any action necessary to identify such Holder as a selling securityholder in the Shelf Registration Statement; *provided, however*, that nothing in this subparagraph shall relieve such Holder of the obligation to return a completed and signed Notice and Questionnaire to the Company in accordance with Section 3(a)(ii) hereof; and

(iii) if at any time the Securities, pursuant to the Indenture, are convertible into securities other than Common Stock, to cause, or to cause any successor under the Indenture to cause, such securities to be included in the Shelf Registration Statement (or a new Shelf Registration Statement) no later than the date on which the Securities may then be convertible into such securities.

The Company and the Subsidiary Guarantors shall be deemed not to have used their reasonable best efforts to keep the Shelf Registration Statement effective during the requisite period if the Company or any of the Subsidiary Guarantors voluntarily takes any action that would result in Holders of Registrable Securities covered thereby not being able to offer and sell any of such Registrable Securities during that period, unless such action is (A) required by applicable law and the Company and the Subsidiary Guarantors thereafter promptly comply with the requirements of paragraph 3(j) below or (B) permitted pursuant to Section 2(c) below.

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(c) The Company and the Subsidiary Guarantors may suspend the use of the Prospectus for a period (a “Suspension Period”) not to exceed 30 days in any 90-day period or an aggregate of 90 days in any 12-month period if the Board of Directors of the Company shall have determined in good faith that because of valid business reasons (not including avoidance of the Company’s and the Subsidiary Guarantors’ obligations hereunder), including the acquisition or divestiture of assets, pending corporate developments and similar events, it is in the best interests of the Company and the Subsidiary Guarantors to suspend such use, and prior to suspending such use the Company and the Subsidiary Guarantors provide the Holders with written notice of such suspension, which notice need not specify the nature of the event giving rise to such suspension.

## 3. *Registration Procedures.* In connection with the Shelf Registration Statement, the following provisions shall apply:

(a) (i) Not less than 30 calendar days prior to the Effective Time of the Shelf Registration Statement, the Company shall mail the Notice and Questionnaire to the Holders of Registrable Securities. No Holder shall be entitled to be named as a selling securityholder in the Shelf Registration Statement as of the Effective Time, and no Holder shall be entitled to use the Prospectus forming a part thereof for resales of Registrable Securities at any time, in each case unless such Holder has returned a completed and signed Notice and Questionnaire to the Company by the deadline for response set forth therein; *provided, however*, Holders of Registrable Securities shall have at least 28 calendar days from the date on which the Notice and Questionnaire is first mailed to such Holders to return a completed and signed Notice and Questionnaire to the Company.

(ii) After the Effective Time of the Shelf Registration Statement, the Company shall, upon the request of any Holder of Registrable Securities that is not then an Electing Holder, promptly send a Notice and Questionnaire to such Holder. The Company and the Subsidiary

Guarantors shall not be required to take any action to name such Holder as a selling securityholder in the Shelf Registration Statement or to enable such Holder to use the Prospectus forming a part thereof for resales of Registrable Securities until such Holder has returned a completed and signed Notice and Questionnaire to the Company.

(iii) The term “Electing Holder” shall mean any Holder of Registrable Securities that has returned a completed and signed Notice and Questionnaire to the Company in accordance with Section 3(a)(i) or 3(a)(ii) hereof.

(iv) A Holder of Registrable Securities that does not provide the Company with a completed and signed Notice and Questionnaire or the information called for by it on or before the fifth business day before the date the initial Shelf Registration becomes effective or designated, as applicable, will not be named as a selling securityholder in the Shelf Registration Statement when it becomes effective or designated, as applicable, and will not be able to use the Shelf Registration Statement to resell Registrable Securities. However, such a Holder of Registrable Securities may thereafter provide the

Company with a completed and signed Notice and Questionnaire, following which the Company and the Subsidiary Guarantors will, within 30 days after that date (except as described below), file a supplement to the Prospectus relating to the Shelf Registration Statement, or, if required, file a post-effective amendment or a new Shelf Registration Statement in order to permit resales of such Holder’s Registrable Securities. However, if the Company receives the completed and signed Notice and Questionnaire during a Suspension Period, or if the Company initiates a Suspension Period within 30 days after the Company receives the completed and signed Notice and Questionnaire, then the Company and the Subsidiary Guarantors will, except as described below, make the filing within 30 days after the end of the Suspension Period. Notwithstanding anything herein to the contrary, in no event will the Company and the Subsidiary Guarantors be required to file more than one supplement to the Prospectus per 30-day period in order to name as a selling securityholder any Holder that has provided the Company with a completed and signed Notice and Questionnaire after the fifth business day before the date the initial Shelf Registration becomes effective or designated, as applicable. If the Company and the Subsidiary Guarantors files a post-effective amendment or a new Shelf Registration Statement, then the Company and the Subsidiary Guarantors will use reasonable best efforts to cause the post-effective amendment or new Shelf Registration Statement to become effective under the Securities Act as promptly as practicable, but in any event by the 90th day after this Agreement requires the Company and the Subsidiary Guarantors to file the post-effective amendment or new Registration Statement. However, if a post-effective amendment or a new Shelf Registration Statement is required in order to permit resales by Holders seeking to include Registrable Securities in the Shelf Registration statement after the effectiveness or designation of the original Shelf Registration Statement, the Company and the Subsidiary Guarantors will not be required to file more than one post-effective amendment or new Registration Statement for such purpose in any 90-day period.

(b) The Company shall furnish to each Electing Holder, prior to the Effective Time, a copy of the Shelf Registration Statement initially filed with the Commission, and shall furnish to such Holders, prior to the filing thereof with the Commission, copies of each amendment thereto and each amendment or supplement, if any, to the Prospectus included therein, and shall use its reasonable best efforts to reflect in each such document, at the Effective Time or when so filed with the Commission, as the case may be, such comments as such Holders and their respective counsel reasonably may propose.

(c) The Company and the Subsidiary Guarantors shall promptly take such action as may be necessary so that (i) each of the Shelf Registration Statement and any amendment thereto and the Prospectus forming a part thereof and any amendment or supplement thereto (and each report or other document incorporated therein by reference in each case) complies in all material respects with the Securities Act and the Exchange Act and the respective rules and regulations thereunder, (ii) each of the Shelf Registration Statement and any amendment thereto does not, when it becomes effective or is designated, as applicable, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading and (iii) each of the Prospectus

forming a part of the Shelf Registration Statement, and any amendment or supplement to such Prospectus, does not at any time during the Effectiveness Period include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) The Company shall promptly advise each Electing Holder, and shall confirm such advice in writing if so requested by any such Electing Holder:

(i) when a Shelf Registration Statement and any amendment thereto has been filed with the Commission and when a Shelf Registration Statement or any post-effective amendment thereto has become effective, in each case making a public announcement thereof by release made to Reuters Economic Services and Bloomberg Business News;

(ii) of any request by the Commission for amendments or supplements to the Shelf Registration Statement or the Prospectus included therein or for additional information;

(iii) after the receipt by the Company of any notification with respect to the issuance by the Commission of any stop order suspending the effectiveness of the Shelf Registration Statement or the initiation of any proceedings for such purpose;

(iv) of the receipt by the Company of any notification with respect to the suspension of the qualification of the securities included in the Shelf Registration Statement for sale in any jurisdiction or the initiation of any proceeding for such purpose; and

(v) of the occurrence of any event or the existence of any state of facts that requires the making of any changes in the Shelf Registration Statement or the Prospectus included therein so that, as of such date, such Shelf Registration Statement and Prospectus do not contain an untrue statement of a material fact and do not omit to state a material fact required to be stated therein or necessary to make the statements therein (in the

case of the Prospectus, in light of the circumstances under which they were made) not misleading (which advice shall be accompanied by an instruction to such Holders to suspend the use of the Prospectus until the requisite changes have been made).

(e) The Company and the Subsidiary Guarantors shall use their reasonable best efforts to prevent the issuance, and if issued to obtain the withdrawal at the earliest possible time, of any order suspending the effectiveness of the Shelf Registration Statement.

(f) The Company shall furnish to each Electing Holder, without charge, at least one copy of the Shelf Registration Statement and all post-effective amendments thereto, including financial statements and schedules, and, if such Electing Holder so requests in writing, all

reports, other documents and exhibits that are filed with or incorporated by reference in the Shelf Registration Statement.

(g) The Company shall, during the Effectiveness Period, deliver to each Electing Holder, without charge, as many copies of the Prospectus (including each preliminary Prospectus) included in the Shelf Registration Statement and any amendment or supplement thereto as such Electing Holder may reasonably request; and the Company and the Subsidiary Guarantors consent (except during a Suspension Period or during the continuance of any event or the existence of any state of facts described in Section 3(d)(v) above) to the use of the Prospectus and any amendment or supplement thereto by each of the Electing Holders in connection with the offering and sale of the Registrable Securities covered by the Prospectus and any amendment or supplement thereto during the Effectiveness Period.

(h) Prior to any offering of Registrable Securities pursuant to the Shelf Registration Statement, the Company and the Subsidiary Guarantors shall (i) register or qualify or cooperate with the Electing Holders and their respective counsel in connection with the registration or qualification of such Registrable Securities for offer and sale under the securities or “blue sky” laws of such jurisdictions within the United States as any Electing Holder may reasonably request, (ii) keep such registrations or qualifications in effect and comply with such laws so as to permit the continuance of offers and sales in such jurisdictions for so long as may be necessary to enable any Electing Holder or underwriter, if any, to complete its distribution of Registrable Securities pursuant to the Shelf Registration Statement, and (iii) take any and all other actions necessary or advisable to enable the disposition in such jurisdictions of such Registrable Securities; *provided, however*, that neither the Company nor the Subsidiary Guarantors shall be obligated to (A) qualify as a foreign corporation or as a dealer in securities in any jurisdiction where it would not otherwise be required to so qualify but for this Section 3(h) or (B) file any general consent to service of process in any jurisdiction where it is not as of the date hereof so subject.

(i) Unless any Registrable Securities shall be in book-entry only form, the Company and the Subsidiary Guarantors shall cooperate with the Electing Holders to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold pursuant to the Shelf Registration Statement, which certificates, if so required by any securities exchange upon which any Registrable Securities are listed, shall be penned, lithographed or engraved, or produced by any combination of such methods, on steel engraved borders, and which certificates shall be free of any restrictive legends and in such permitted denominations and registered in such names as Electing Holders may request in connection with the sale of Registrable Securities pursuant to the Shelf Registration Statement.

(j) Upon the occurrence of any event or the existence of any state of facts contemplated by paragraph 3(d)(v) above, the Company and the Subsidiary Guarantors shall promptly prepare a post-effective amendment to any Shelf Registration Statement or an amendment or supplement to the related Prospectus or file any other required document so that, as thereafter delivered to purchasers of the Registrable Securities included therein, the Prospectus will not include an untrue statement of a material fact or omit to state any material

fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. If the Company notifies the Electing Holders of the occurrence of any event or the existence of any state of facts contemplated by paragraph 3(d)(v) above, the Electing Holder shall suspend the use of the Prospectus until the requisite changes to the Prospectus have been made.

(k) Not later than the Effective Time of the Shelf Registration Statement, the Company shall provide a CUSIP number for the Registrable Securities that are debt securities.

(l) The Company shall use its reasonable best efforts to comply with all applicable Rules and Regulations, and to make generally available to its securityholders as soon as practicable, but in any event not later than eighteen months after (i) the effective date (as defined in Rule 158(c) under the Securities Act) of the Shelf Registration Statement (or, if previously effective, the designation date), (ii) the effective date of each post-effective amendment to the Shelf Registration Statement, and (iii) the date of each filing by the Company with the Commission of an Annual Report on Form 10-K that is incorporated by reference in the Shelf Registration Statement, an earning statement of the Company and its subsidiaries complying with Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder (including, at the option of the Company, Rule 158).

(m) Not later than the Effective Time of the Shelf Registration Statement, the Company and the Subsidiary Guarantors shall cause the Indenture to be qualified under the Trust Indenture Act; in connection with such qualification, the Company and the Subsidiary Guarantors shall cooperate with the Trustee under the Indenture and the Holders (as defined in the Indenture) to effect such changes to the Indenture as may be required for such Indenture to be so qualified in accordance with the terms of the Trust Indenture Act; and the Company and the Subsidiary Guarantors shall execute, and shall use all reasonable efforts to cause the Trustee to execute, all documents that may be required to effect such changes and all other forms and documents required to be filed with the Commission to enable such Indenture to be so qualified in a timely manner. In the event that any such amendment or modification referred to in this Section 3(m) involves the appointment of a new trustee under the Indenture, the Company shall appoint a new trustee thereunder pursuant to the applicable provisions of the Indenture.

(n) In the event of an underwritten offering conducted pursuant to Section 6 hereof, the Company and the Subsidiary Guarantors shall, if requested, promptly include or incorporate in a Prospectus supplement or post-effective amendment to the Shelf Registration Statement such information as

the Managing Underwriters reasonably agree should be included therein and to which the Company and the Subsidiary Guarantors do not reasonably object and shall make all required filings of such Prospectus supplement or post-effective amendment as soon as practicable after it is notified of the matters to be included or incorporated in such Prospectus supplement or post-effective amendment.

(o) The Company and the Subsidiary Guarantors shall enter into such customary agreements (including, if requested, an underwriting agreement in customary form in the event

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of an underwritten offering conducted pursuant to Section 6 hereof) and take all other appropriate action in order to expedite and facilitate the registration and disposition of the Registrable Securities, and in connection therewith, if an underwriting agreement is entered into, cause the same to contain indemnification provisions and procedures substantially identical to those set forth in Section 5 hereof with respect to all parties to be indemnified pursuant to Section 5 hereof; *provided* that the Company and the Subsidiary Guarantors shall not be required to enter into any such agreement more than two times with respect to all the Registrable Securities and may delay entering into such agreement until the consummation of any underwritten public offering in which the Company shall have then engaged.

(p) The Company shall:

(i)(A) make reasonably available for inspection by the Electing Holders, any underwriter participating in any disposition pursuant to the Shelf Registration Statement, and any attorney, accountant or other agent retained by such Electing Holders or any such underwriter all relevant financial and other records, pertinent corporate documents and properties of the Company and its subsidiaries, and (B) cause the Company's and the Subsidiary Guarantors' officers, directors and employees to supply all information reasonably requested by such Electing Holders or any such underwriter, attorney, accountant or agent in connection with the Shelf Registration Statement, in each case, as is customary for similar due diligence examinations; *provided, however*, that all records, information and documents that are designated in writing by the Company, in good faith, as confidential shall be kept confidential by such Electing Holders and any such underwriter, attorney, accountant or agent, unless such disclosure is made in connection with a court proceeding or required by law, or such records, information or documents become available to the public generally or through a third party without an accompanying obligation of confidentiality; and *provided further* that, if the foregoing inspection and information gathering would otherwise disrupt the Company's or the Subsidiary Guarantors' conduct of its business, such inspection and information gathering shall, to the greatest extent possible, be coordinated on behalf of the Electing Holders and the other parties entitled thereto by one counsel designated by and on behalf of the Electing Holders and other parties;

(ii) in connection with any underwritten offering conducted pursuant to Section 6 hereof, make such representations and warranties to the Managing Underwriters, in form, substance and scope as are customarily made by the Company to underwriters in secondary underwritten offerings of equity and convertible debt securities and covering matters including, but not limited to, those set forth in the Purchase Agreement;

(iii) in connection with any underwritten offering conducted pursuant to Section 6 hereof, obtain opinions of counsel to the Company (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to the Managing Underwriters) addressed to the Managing Underwriters, covering such matters as are customarily covered in opinions requested in secondary underwritten

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offerings of equity and convertible debt securities and such other matters as may be reasonably requested by such Managing Underwriters;

(iv) in connection with any underwritten offering conducted pursuant to Section 6 hereof, obtain "cold comfort" letters and updates thereof from the independent public accountants of the Company (and, if necessary, from the independent public accountants of any subsidiary of the Company or of any business acquired by the Company for which financial statements and financial data are, or are required to be, included in the Shelf Registration Statement), addressed to the underwriters, in customary form and covering matters of the type customarily covered in "cold comfort" letters in connection with secondary underwritten offerings;

(v) in connection with any underwritten offering conducted pursuant to Section 6 hereof, deliver such documents and certificates as may be reasonably requested by the Managing Underwriters, including, without limitation, certificates to evidence compliance with Section 3(j) hereof and with any other customary conditions contained in the underwriting agreement or other agreements entered into by the Company.

(q) The Company will use its reasonable best efforts to cause the Common Stock issuable upon conversion of the Securities to be listed on the New York Stock Exchange or other stock exchange or trading system on which the Common Stock primarily trades on or prior to the Effective Time of the Shelf Registration Statement hereunder.

(r) In the event that any broker-dealer registered under the Exchange Act shall be an "affiliate" (as defined in Rule 2720(b)(1) of the NASD Rules (or any successor provision thereto)) of the Company or has a "conflict of interest" (as defined in Rule 2720(b)(7) of the NASD Rules (or any successor provision thereto)) and such broker-dealer shall underwrite, participate as a member of an underwriting syndicate or selling group or assist in the distribution of any Registrable Securities covered by the Shelf Registration Statement, whether as a Holder of such Registrable Securities or as an underwriter, a placement or sales agent or a broker or dealer in respect thereof, or otherwise, the Company shall assist such broker-dealer in complying with the requirements of the NASD Rules, including, without limitation, by (A) engaging a "qualified independent underwriter" (as defined in Rule 2720(b)(15) of the NASD Rules (or any successor provision thereto)) to participate in the preparation of the registration statement relating to such Registrable Securities, to exercise usual standards of due diligence in respect thereto and to recommend the public offering price of such Registrable Securities, (B) indemnifying such qualified independent underwriter to the extent of the indemnification of underwriters provided in Section 5 hereof, and (C) providing such information to such broker-dealer as may be required in order for such broker-dealer to comply with the requirements of the NASD Rules.

(s) The Company and the Subsidiary Guarantors shall use their reasonable best efforts to take all other steps necessary to effect the registration, offering and sale of the Registrable Securities covered by the Shelf Registration Statement contemplated hereby.

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4. *Registration Expenses.* Except as otherwise provided in Section 3, the Company shall bear all fees and expenses incurred in connection with the performance by the Company and the Subsidiary Guarantors of their obligations under Sections 2, 3 and 6 hereof and shall bear or reimburse the Electing Holders for the reasonable fees and disbursements of a single counsel selected by a plurality of all Electing Holders who own an aggregate of not less than 25% of the Registrable Securities covered by the Shelf Registration Statement to act as counsel therefor in connection therewith. Each Electing Holder shall pay all underwriting discounts and commissions and transfer taxes, if any, relating to the sale or disposition of such Electing Holder's Registrable Securities pursuant to the Shelf Registration Statement.

5. *Indemnification and Contribution.*

(a) *Indemnification by the Company and the Subsidiary Guarantors.* Upon the registration of the Registrable Securities pursuant to Section 2 hereof, the Company and the Subsidiary Guarantors, jointly and severally, shall indemnify and hold harmless each Electing Holder and each underwriter, selling agent or other securities professional, if any, which facilitates the disposition of Registrable Securities, and each of their respective officers and directors and each person who controls such Electing Holder, underwriter, selling agent or other securities professional within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (each such person being sometimes referred to as an "Indemnified Person") against any losses, claims, damages or liabilities, joint or several, to which such Indemnified Person may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Shelf Registration Statement under which such Registrable Securities are to be registered under the Securities Act, or any Prospectus contained therein or furnished by the Company to any Indemnified Person, or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and the Company and the Subsidiary Guarantors, jointly and severally, hereby agree to reimburse such Indemnified Person for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such action or claim as such expenses are incurred; *provided, however*, that neither the Company nor any Subsidiary Guarantor shall be liable to any such Indemnified Person in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in such Shelf Registration Statement or Prospectus, or amendment or supplement, (i) in reliance upon and in conformity with written information furnished to the Company by such Indemnified Person expressly for use therein or (ii) distributed by such Indemnified Person in contravention of a reasonable written direction provided by the Company to such Indemnified Person in advance of such distribution in accordance with Section 3(j).

(b) *Indemnification by the Electing Holders and any Agents and Underwriters.* Each Electing Holder agrees, as a consequence of the inclusion of any of such Electing Holder's Registrable Securities in such Shelf Registration Statement, and each underwriter, selling agent or other securities professional, if any, which facilitates the disposition of Registrable Securities

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shall agree, as a consequence of facilitating such disposition of Registrable Securities, severally and not jointly, to (i) indemnify and hold harmless the Company and the Subsidiary Guarantors, their directors, officers who sign any Shelf Registration Statement and each person, if any, who controls the Company or any of the Subsidiary Guarantors within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act, against any losses, claims, damages or liabilities to which the Company, the Subsidiary Guarantors or such other persons may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in such Shelf Registration Statement or Prospectus, or any amendment or supplement, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company by such Electing Holder, underwriter, selling agent or other securities professional expressly for use therein, and (ii) reimburse the Company and the Subsidiary Guarantors for any legal or other expenses reasonably incurred by the Company and the Subsidiary Guarantors in connection with investigating or defending any such action or claim as such expenses are incurred.

(c) *Notices of Claims, Etc.* Promptly after receipt by an indemnified party under subsection (a) or (b) above of notice of the commencement of any action or proceeding for which indemnification is sought, such indemnified party shall, if a claim in respect thereof is to be made against an indemnifying party under this Section 5, notify such indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to any indemnified party otherwise than under the indemnification provisions of or contemplated by subsection (a) or (b) above. In case any such action shall be brought against any indemnified party and it shall notify an indemnifying party of the commencement thereof, such indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, such indemnifying party shall not be liable to such indemnified party under this Section 5 for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to, or an admission of, fault, culpability or a failure to act, by or on behalf of any indemnified party.

(d) *Contribution.* If the indemnification provided for in this Section 5 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the indemnifying party and the indemnified party in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative fault of such indemnifying party and indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by such indemnifying party or by such indemnified party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 5(d) were determined by pro rata allocation (even if the Electing Holders or any underwriters, selling agents or other securities professionals or all of them were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 5(d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above shall be deemed to include any legal or other fees or expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The obligations of the Electing Holders and any underwriters, selling agents or other securities professionals in this Section 5(d) to contribute shall be several in proportion to the percentage of principal amount or number of shares, as applicable, of Registrable Securities registered or underwritten, as the case may be, by them and not joint.

(e) Notwithstanding the provisions of this Section 5(e), no holder shall be required to contribute any amount in excess of the amount by which the dollar amount of the proceeds received by such holder from the sale of any Registrable Securities (after deducting any fees, discounts and commissions applicable thereto) exceeds the amount of any damages which such holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission, and no underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Registrable Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission.

(f) (e) The obligations of the Company and the Subsidiary Guarantors under this Section 6 shall be in addition to any liability which the Company or the Subsidiary Guarantors may otherwise have and shall extend, upon the same terms and conditions, to each officer, director and partner of each holder, agent and underwriter and each person, if any, who controls any holder, agent or underwriter within the meaning of the Securities Act; and the

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obligations of the holders and any agents or underwriters contemplated by this Section 5 shall be in addition to any liability which the respective holder, agent or underwriter may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company or the Subsidiary Guarantors (including any person who, with his consent, is named in any registration statement as about to become a director of the Company or the Subsidiary Guarantors) and to each person, if any, who controls the Company within the meaning of the Securities Act.

6. *Underwritten Offering.* Any Holder of Registrable Securities who desires to do so may sell Registrable Securities (in whole or in part) in an underwritten offering; *provided* that (i) the Electing Holders of at least 33-1/3% in aggregate principal amount of the Registrable Securities then covered by the Shelf Registration Statement shall request such an offering and (ii) at least such aggregate principal amount of such Registrable Securities shall be included in such offering; and *provided further* that the Company shall not be obligated to cooperate with more than one underwritten offering during the Effectiveness Period. Upon receipt of such a request, the Company shall provide all Holders of Registrable Securities written notice of the request, which notice shall inform such Holders that they have the opportunity to participate in the offering. In any such underwritten offering, the investment banker or bankers and manager or managers that will administer the offering will be selected by, and the underwriting arrangements with respect thereto (including the size of the offering) will be approved by, the holders of a majority of the Registrable Securities to be included in such offering; *provided, however*, that such investment bankers and managers and underwriting arrangements must be reasonably satisfactory to the Company. No Holder may participate in any underwritten offering contemplated hereby unless (a) such Holder agrees to sell such Holder's Registrable Securities to be included in the underwritten offering in accordance with any approved underwriting arrangements, (b) such Holder completes and executes all reasonable questionnaires, powers of attorney, indemnities, underwriting agreements, lock-up letters and other documents required under the terms of such approved underwriting arrangements, and (c) if such Holder is not then an Electing Holder, such Holder returns a completed and signed Notice and Questionnaire to the Company in accordance with Section 3(a)(ii) hereof within a reasonable amount of time before such underwritten offering. The Holders participating in any underwritten offering shall be responsible for any underwriting discounts and commissions and fees and, subject to Section 4 hereof, expenses of their own counsel. The Company shall pay all expenses customarily borne by issuers in an underwritten offering, including but not limited to filing fees, the fees and disbursements of its counsel and independent public accountants and any printing expenses incurred in connection with such underwritten offering. Notwithstanding the foregoing or the provisions of Section 3(n) hereof, upon receipt of a request from the Managing Underwriter or a representative of holders of a majority of the Registrable Securities to be included in an underwritten offering to prepare and file an amendment or supplement to the Shelf Registration Statement and Prospectus in connection with an underwritten offering, the Company and the Subsidiary Guarantors may delay the filing of any such amendment or supplement for up to 90 days if the Board of Directors of the Company shall have determined in good faith that the Company has a bona fide business reason for such delay.

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7. *Special Interest.*

(a) Notwithstanding any postponement of effectiveness permitted by Section 2(a) hereof, if (i) on or prior to the 120th day following the Closing Date, a Shelf Registration Statement has not been filed or designated with the Commission or (ii) on or prior to the 180th day following the Closing Date, such Shelf Registration Statement is not declared effective by the Commission (or, if previously effective, designated) (each, a "Registration Default"), the Company shall be required to pay special interest ("Special Interest"), from and including the day following such Registration Default until such Shelf Registration Statement is either so filed or designated, as applicable, or so filed and subsequently declared effective, as applicable, at a rate per annum equal

to an additional one-quarter of one percent (0.25%) of the principal amount of Registrable Securities, to and including the 90th day following such Registration Default and one-half of one percent (0.50%) thereof from and after the 91st day following such Registration Default.

(b) In the event that (i) the Shelf Registration Statement ceases to be effective, (ii) the Company and the Subsidiary Guarantors suspend the use of the Prospectus pursuant to Section 2(c) or 3(j) hereof, (iii) the Holders are not authorized to use the Prospectus pursuant to Section 3(g) hereto or (iv) the Holders are otherwise prevented or restricted by the Company and the Subsidiary Guarantors from effecting sales or an Effective Failure, as applicable, pursuant to the Shelf Registration Statement (an "Effective Failure") for more than 30 days, whether or not consecutive, in any 90-day period, or for more than 90 days, whether or not consecutive, during any 12-month period, then the Company shall pay Special Interest at a rate per annum equal to an additional one-quarter of one percent (0.25%) of the principal amount of Registrable Securities from the 31<sup>st</sup> day of the applicable 90-day period or the 91st day of the applicable 12-month period, as the case may be, and at a rate per annum equal to an additional one-half of one percent (0.50%) thereafter, that any such Effective Failure has existed until the earlier of (1) the time the Holders of Registrable Securities are again able to make sales under the Shelf Registration Statement or (2) the expiration of the Effectiveness Period.

(c) Following the cure of a Registration Default or an Effective Failure, as applicable, Special Interest will cease to accrue with respect to that Registration Default or Effective Failure, respectively. In addition, no Special Interest will accrue after the end of the Effectiveness Period and no Special Interest will accrue on and after the date a Registrable Security that is a note is converted in accordance with the Indenture. However, the Company shall remain liable for any previously accrued additional Special Interest. Any amounts to be paid as Special Interest pursuant to paragraphs (a) or (b) of this Section 7 shall be paid in cash semi-annually in arrears, with the first semi-annual payment due on the first Interest Payment Date (as defined in the Indenture), as applicable, following the date of such Registration Default or Effective Failure, as applicable. Such Special Interest will accrue (1) in respect of the Securities at the rates set forth in paragraphs (a) or (b) of this Section 7, as applicable, on the principal amount of the Securities and (2) in respect of the Common Stock issued upon conversion of the Securities, at the rates set forth in paragraphs (a) or (b) of this Section 7, as applicable, applied to the Conversion Price (as defined in the Indenture) at that time.

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(d) Except as provided in Section 8(b) hereof, the Special Interest as set forth in this Section 7 shall be the exclusive monetary remedy available to the Holders of Registrable Securities for such Registration Default or Effective Failure. In no event shall the Company be required to pay Special Interest in excess of the applicable maximum amount of one-half of one percent (0.50%) per annum set forth above, regardless of whether one or multiple Registration Defaults or Effective Failures exist.

#### 8. *Miscellaneous.*

(a) *Other Registration Rights.* The Company may grant registration rights that would permit any person that is a third party the right to piggy-back on any Shelf Registration Statement, *provided* that if the Managing Underwriter of any underwritten offering conducted pursuant to Section 6 hereof notifies the Company and the Electing Holders that the total amount of securities which the Electing Holders and the holders of such piggy-back rights intend to include in any Shelf Registration Statement is so large as to materially threaten the success of such offering (including the price at which such securities can be sold), then the amount, number or kind of securities to be offered for the account of holders of such piggy-back rights will be reduced to the extent necessary to reduce the total amount of securities to be included in such offering to the amount, number and kind recommended by the Managing Underwriter prior to any reduction in the amount of Registrable Securities to be included in such Shelf Registration Statement. The Company has granted piggy-back rights (the "Existing Piggy-Back Rights") to certain persons party to that certain Shareholders Agreement, dated as of March 1, 2002 (the "Shareholders Agreement"), among the Company, Asbury Automotive Holdings, L.L.C. and other stockholders listed on the signature pages thereto. Notwithstanding anything contrary stated in this Section 8(a), the terms of the Shareholders Agreement relating to the Existing Piggy-Back Rights shall control the rights to piggy-back on any Shelf Registration Statement by the parties to the Shareholders Agreement.

(b) *Specific Performance.* The parties hereto acknowledge that there would be no adequate remedy at law if the Company or any of the Subsidiary Guarantors fails to perform any of its obligations hereunder and that the Purchasers and the Holders from time to time may be irreparably harmed by any such failure, and accordingly agree that the Purchasers and such Holders, in addition to any other remedy to which they may be entitled at law or in equity and without limiting the remedies available to the Electing Holders under Section 7 hereof, shall be entitled to compel specific performance of the obligations of the Company and the Subsidiary Guarantors under this Registration Rights Agreement in accordance with the terms and conditions of this Registration Rights Agreement, in any court of the United States or any State thereof having jurisdiction.

(c) *Amendments and Waivers.* This Agreement, including this Section 8(c), may be amended, and waivers or consents to departures from the provisions hereof may be given, only by a written instrument duly executed by the Company and the holders of a majority in aggregate principal amount of Registrable Securities then outstanding. Each Holder of Registrable Securities outstanding at the time of any such amendment, waiver or consent or thereafter shall be bound by any amendment, waiver or consent effected pursuant to this

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Section 8(c), whether or not any notice, writing or marking indicating such amendment, waiver or consent appears on the Registrable Securities or is delivered to such Holder.

(d) *Notices.* All notices and other communications provided for or permitted hereunder shall be given as provided in the Indenture.

(e) *Parties in Interest.* The parties to this Agreement intend that all Holders of Registrable Securities shall be entitled to receive the benefits of this Agreement and that any Electing Holder shall be bound by the terms and provisions of this Agreement by reason of such election with respect to the Registrable Securities which are included in a Shelf Registration Statement. All the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the respective successors and assigns of the parties hereto and any Holder from time to time of the Registrable Securities to the aforesaid extent. In the event that any transferee of any Holder of Registrable Securities shall acquire Registrable Securities, in any manner, whether by gift, bequest, purchase, operation of law or otherwise, such transferee shall, without any further writing or action of any kind, be entitled to



receive the benefits of and, if an Electing Holder, be conclusively deemed to have agreed to be bound by and to perform all of the terms and provisions of this Agreement to the aforesaid extent.

(f) *Counterparts.* This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(g) *Headings.* The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(h) *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(i) *Severability.* In the event that any one or more of the provisions contained herein, or the application thereof in any circumstances, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not be in any way impaired or affected thereby, it being intended that all of the rights and privileges of the parties hereto shall be enforceable to the fullest extent permitted by law.

(j) *Survival.* The respective indemnities, agreements, representations, warranties and other provisions set forth in this Agreement or made pursuant hereto shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Electing Holder, any director, officer or partner of such Holder, any agent or underwriter, any director, officer or partner of such agent or underwriter, or any controlling person of any of the foregoing, and shall survive the transfer and registration of the Registrable Securities of such Holder.

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Please confirm that the foregoing correctly sets forth the agreement between the Company, the Subsidiary Guarantors and you.

Very truly yours,

Asbury Automotive Group, Inc.

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Chief Financial Officer

Asbury Automotive Management L.L.C.  
Asbury Automotive South, L.L.C.  
Asbury Automotive West, L.L.C.  
Asbury Automotive Southern California L.L.C.  
Asbury Arkansas Hund L.L.C.  
Asbury AR Niss L.L.C .  
Asbury Automotive Arkansas Dealership Holdings L.L.C.  
Asbury Automotive Arkansas L.L.C.  
Asbury MS Gray-Daniels L.L.C.  
Asbury MS Metro L.L.C.  
Escude-M L.L.C.  
Escude-MO L.L.C.  
Escude-NN L.L.C.  
Escude-NS L.L.C.  
Escude-T L.L.C.  
NP FLM L.L.C.  
NP MZD L.L.C.  
NP VKW L.L.C.  
Premier NSN L.L.C.  
Premier Pon L.L.C.  
Prestige Bay L.L.C.  
Prestige Toy L.L.C.  
Asbury Atlanta AC L.L.C.  
Asbury Atlanta AU L.L.C.  
Asbury Atlanta BM L.L.C.  
Asbury Atlanta Chevrolet L.L.C.  
Asbury Atlanta Hon L.L.C.  
Asbury Atlanta Infiniti L.L.C.

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Asbury Atlanta Jaguar L.L.C.  
Asbury Atlanta Lex L.L.C.

Asbury Atlanta VL L.L.C.  
 Asbury Automotive Atlanta L.L.C.  
 Atlanta Real Estate Holdings L.L.C.  
 Spectrum Insurance Services L.L.C.  
 Asbury Automotive Fresno L.L.C.  
 Asbury Fresno Imports L.L.C.  
 AF Motors, L.L.C.  
 ALM Motors, L.L.C.  
 ANL, L.P. (by its general partner Asbury Jax Management L.L.C.)  
 Asbury Automotive Central Florida, L.L.C.  
 Asbury Automotive Deland, L.L.C.  
 Asbury Automotive Florida, L.L.C.  
 Asbury Automotive Jacksonville GP L.L.C.  
 Asbury Automotive Jacksonville, L.P. (by its general partner Asbury Automotive Jacksonville GP L.L.C.)  
 Asbury Deland Imports 2, L.L.C.  
 Asbury Jax AC L.L.C.  
 Asbury Jax Holdings, L.P. (by its general partner Asbury Jax Management L.L.C.)  
 Asbury Jax K L.L.C.  
 Asbury Jax Management L.L.C.  
 Asbury Jax PB Chev L.L.C.  
 Asbury-Deland Imports, L.L.C.  
 Avenues Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 Bayway Financial Services, L.P. (by its general partner Asbury Jax Management L.L.C.)  
 BFP Motors L.L.C.  
 C&O Properties, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CFP Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CH Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CHO Partnership, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CK Chevrolet L.L.C.  
 CK Motors LLC  
 CN Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 Coggin Automotive Corp.

Coggin Cars L.L.C.  
 Coggin Chevrolet L.L.C.  
 Coggin Management, L.P. (by its general partner Asbury Jax Management L.L.C.)  
 CP-GMC Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
 CSA Imports L.L.C.  
 HFP Motors L.L.C.  
 KP Motors L.L.C.  
 Asbury MS Chev, L.L.C.  
 Asbury Automotive Mississippi, L.L.C.  
 Asbury MS Wimber L.L.C.  
 Asbury MS Yazoo L.L.C.  
 Asbury No Cal Niss L.L.C.  
 Asbury Sacramento Imports L.L.C.  
 Asbury So Cal DC L.L.C.  
 Asbury So Cal Hon L.L.C.  
 Asbury So Cal Niss L.L.C.  
 Asbury Automotive North Carolina Dealership Holdings L.L.C.  
 Asbury Automotive North Carolina L.L.C.  
 Asbury Automotive North Carolina Management L.L.C.  
 Asbury Automotive North Carolina Real Estate Holdings L.L.C.  
 Camco Finance II L.L.C.  
 Camco Finance L.L.C.  
 Crown Acura/Nissan, LLC  
 Crown Battleground, LLC  
 Crown CHH L.L.C.  
 Crown CHO L.L.C.  
 Crown CHV L.L.C.  
 Crown Dodge, LLC

Crown FDO L.L.C.  
Crown FFO Holdings L.L.C.  
Crown FFO L.L.C.  
Crown Fordham L.L.C.  
Crown GAC L.L.C.  
Crown GAU L.L.C.  
Crown GBM L.L.C.  
Crown GCA L.L.C.  
Crown GCH L.L.C.  
Crown GDO L.L.C.  
Crown GHO L.L.C.  
Crown GKI L.L.C.  
Crown GMI L.L.C.

Crown GNI L.L.C.  
Crown GPG L.L.C.  
Crown GVO L.L.C.  
Crown Honda, LLC  
Crown Honda-Volvo, LLC  
Crown Mitsubishi, LLC  
Crown Motorcar Company L.L.C.  
Crown Raleigh L.L.C.  
Crown RIA L.L.C.  
Crown RIB L.L.C.  
Crown Royal Pontiac, LLC  
Crown SJC L.L.C.  
Crown SNI L.L.C.  
RER Properties, LLC  
RWIJ Properties, LLC  
Asbury Automotive Oregon L.L.C.  
Asbury Automotive Oregon Management L.L.C.  
Thomason Frd L.L.C.  
Thomason Auto Credit Northwest, Inc.  
Thomason Dam L.L.C.  
Thomason Hon L.L.C.  
Thomason Hund L.L.C.  
Thomason Maz L.L.C.  
Thomason Niss L.L.C.  
Thomason Outfitters L.L.C.  
Thomason Pontiac-GMC L.L.C.  
Thomason Suzu L.L.C.  
Thomason TY L.L.C.  
Thomason Zuk L.L.C.  
Asbury Automotive St. Louis, L.L.C.  
Asbury St. Louis Cadillac L.L.C.  
Asbury St. Louis Lex L.L.C.  
Asbury St. Louis Gen L.L.C.  
Asbury Automotive Brandon, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
Asbury Automotive Tampa GP L.L.C.  
Asbury Automotive Tampa, L.P. (by its general partner Asbury Automotive Tampa GP L.L.C.)  
Asbury Tampa Management L.L.C.  
JC Dealer Systems L.L.C.  
Precision Computer Services, Inc.  
Precision Enterprises Tampa, Inc.  
Precision Infiniti, Inc.

Precision Motorcars, Inc.  
Precision Nissan, Inc.  
Tampa Hund, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
Tampa Kia, L.P. (by its general partner Asbury Tampa Management L.L.C.)

Tampa LM, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
Tampa Mit, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
Tampa Suzu, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
WMZ Brandon Motors, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
WMZ Motors, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
WTY Motors L.P. (by its general partner Asbury Tampa Management L.L.C.)  
Asbury Automotive Texas Holdings L.L.C.  
Asbury Automotive Texas L.L.C.  
Asbury Automotive Texas Real Estate Holdings L.P. (by its general partner Asbury Texas Management L.L.C.)  
Asbury Texas Management L.L.C.  
McDavid Auction, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Austin-Acra, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Frisco-Hon, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Grande, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Houston-Hon, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Houston-Kia, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Houston-Niss, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Irving-Hon, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Irving-PB&G, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Irving-Zuk, L.P. (by its general partner Asbury Texas Management L.L.C.)

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McDavid Outfitters, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Plano-Acra, L.P. (by its general partner Asbury Texas Management L.L.C.)  
Plano Lincoln-Mercury, Inc.

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Vice President

Asbury Automotive Group Holdings, Inc.  
Asbury Automotive Group L.L.C.

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Senior Vice President

Asbury Automotive Financial Services, Inc.

By: /s/ Lynne A. Burgess  
Name: Lynne A. Burgess  
Title: Vice President and Assistant Secretary

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Accepted as of the date hereof:

Goldman, Sachs & Co.  
Deutsche Bank Securities Inc.

By: /s/ Goldman, Sachs & Co.  
(Goldman, Sachs & Co.)

On behalf of each of the Purchasers

**Asbury Automotive Group, Inc.**

**INSTRUCTION TO DTC PARTICIPANTS**

*(Date of Mailing)*

**URGENT - IMMEDIATE ATTENTION REQUESTED**

**DEADLINE FOR RESPONSE: [DATE]**

The Depository Trust Company ("DTC") has identified you as a DTC Participant through which beneficial interests in the Asbury Automotive Group, Inc. (the "Company") 3.00% Senior Subordinated Convertible Notes due 2012 (the "Securities") are held.

The Company is in the process of registering the Securities under the Securities Act of 1933 for resale by the beneficial owners thereof. In order to have their Securities included in the registration statement, beneficial owners must complete and return the enclosed Notice of Registration Statement and Selling Securityholder Questionnaire.

It is important that beneficial owners of the Securities receive a copy of the enclosed materials as soon as possible as their rights to have the Securities included in the registration statement depend upon their returning the Notice and Questionnaire by **[Deadline for response]**. Please forward a copy of the enclosed documents to each beneficial owner that holds interests in the Securities through you. If you require more copies of the enclosed materials or have any questions pertaining to this matter, please contact Asbury Automotive Group, Inc., 622 Third Avenue, 37th Floor, New York, New York 10017, (212) 885-2500.

**Asbury Automotive Group, Inc.**

Notice of Registration Statement  
and  
Selling Securityholder Questionnaire

**[Date]**

Asbury Automotive Group, Inc. (the "Company") has filed with the United States Securities and Exchange Commission (the "Commission") a registration statement on Form [ ] (the "*Shelf Registration Statement*") for the registration and resale under Rule 415 of the United States Securities Act of 1933, as amended (the "*Securities Act*"), of the Company's 3.00% Senior Subordinated Convertible Notes due 2012 (the "*Securities*") and the shares of common stock, par value \$.01 per share (the "*Common Stock*"), issuable upon conversion thereof, in accordance with the Registration Rights Agreement, dated as of March 16, 2007 (the "*Registration Rights Agreement*"), between the Company, the Subsidiary Guarantors (as defined in the Registration Rights Agreement) and the purchasers named therein. A copy of the Registration Rights Agreement is attached hereto. All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Registration Rights Agreement.

In order to have Registrable Securities included in the Shelf Registration Statement (or a supplement or amendment thereto), this Notice of Registration Statement and Selling Securityholder Questionnaire ("*Notice and Questionnaire*") must be completed, executed and delivered to the Company at the address set forth herein for receipt **ON OR BEFORE [DEADLINE FOR RESPONSE]**. Beneficial owners of Registrable Securities who do not complete, execute and return this Notice and Questionnaire by such date (i) will not be named as selling securityholders in the Shelf Registration Statement and (ii) may not use the Prospectus forming a part thereof for resales of Registrable Securities.

Certain legal consequences arise from being named as a selling securityholder in the Shelf Registration Statement and related Prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling securityholder in the Shelf Registration Statement and related Prospectus.

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The term “Registrable Securities” is defined in the Registration Rights Agreement to mean all or any portion of the Securities issued from time to time under the Indenture in registered form and the shares of Common Stock issuable upon conversion of such Securities; *provided, however*, that a security ceases to be a Registrable Security when it is no longer a Restricted Security.

The term “Restricted Security” is defined in the Registration Rights Agreement to mean any Security or share of Common Stock issuable upon conversion thereof except any such Security or share of Common Stock which (i) has been effectively registered under the Securities Act and sold in a manner contemplated by the Shelf Registration Statement, (ii) has been transferred in compliance with Rule 144 under the Securities Act (or any successor provision thereto) or is transferable pursuant to paragraph (k) of such Rule 144 (or any successor provision thereto), or (iii) has otherwise been transferred and a new Security or share of Common Stock not subject to transfer restrictions under the Securities Act has been delivered by or on behalf of the Company in accordance with the Indenture.

#### ELECTION

The undersigned holder (the “Selling Securityholder”) of Registrable Securities hereby elects to include in the Shelf Registration Statement the Registrable Securities beneficially owned by it and listed below in Item (3). The undersigned, by signing and returning this Notice and Questionnaire, agrees to be bound with respect to such Registrable Securities by the terms and conditions of this Notice and Questionnaire and the Registration Rights Agreement, including, without limitation, Section 5 of the Registration Rights Agreement, as if the undersigned Selling Securityholder were an original party thereto.

Upon any sale of Registrable Securities pursuant to the Shelf Registration Statement, the Selling Securityholder will be required to deliver to the Company and the Trustee the Notice of Transfer (completed and signed) set forth in Exhibit 1 to this Notice and Questionnaire.

The Selling Securityholder hereby provides the following information to the Company and represents and warrants that such information is accurate and complete:

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#### QUESTIONNAIRE

(1) (a) Full Legal Name of Selling Securityholder:

(b) Full Legal Name of Registered Holder (if not the same as in (a) above) of Registrable Securities Listed in Item (3) Below:

(c) Full Legal Name of DTC Participant (if applicable and if not the same as (b) above) Through Which Registrable Securities Listed in Item (3) Below are Held:

(2) Address for Notices to Selling Securityholder:

Telephone:

Fax:

Contact Person:

(3) Beneficial Ownership of Securities:

*Except as set forth below in this Item (3), the undersigned Selling Securityholder does not beneficially own any Securities or shares of Common Stock issued upon conversion, repurchase or redemption of any Securities.*

(a) Principal amount of Registrable Securities (as defined in the Registration Rights Agreement) beneficially owned:  
CUSIP No(s). of such Registrable Securities:

Number of shares of Common Stock (if any) issued upon conversion, repurchase or redemption of Registrable Securities:

(b) Principal amount of Securities other than Registrable Securities beneficially owned:  
CUSIP No(s). of such other Securities:

Number of shares of Common Stock (if any) issued upon conversion of such other Securities:

(c) Principal amount of Registrable Securities which the undersigned wishes to be included in the Shelf Registration Statement CUSIP No(s). of  
such Registrable Securities to be included in the Shelf Registration Statement:

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Number of shares of Common Stock (if any) issued upon conversion of Registrable Securities which are to be included in the Shelf Registration Statement:

(4) Beneficial Ownership of Other Securities of the Company:

*Except as set forth below in this Item (4), the undersigned Selling Securityholder is not the beneficial or registered owner of any shares of Common Stock or any other securities of the Company, other than the Securities and shares of Common Stock listed above in Item (3).*

State any exceptions here:

(5) Relationships with the Company:

*Except as set forth below, neither the Selling Securityholder nor any of its affiliates, officers, directors or principal equity holders (5% or more) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.*

State any exceptions here:

(6) Plan of Distribution:

*Except as set forth below, the undersigned Selling Securityholder intends to distribute the Registrable Securities listed above in Item (3) only as follows (if at all): Such Registrable Securities may be sold from time to time directly by the undersigned Selling Securityholder or, alternatively, through underwriters, broker-dealers or agents. Such Registrable Securities may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of sale, at varying prices determined at the time of sale, or at negotiated prices. Such sales may be effected in transactions (which may involve crosses or block transactions) (i) on any national securities exchange or quotation service on which the Registrable Securities may be listed or quoted at the time of sale, (ii) in the over-the-counter market, (iii) in transactions otherwise than on such exchanges or services or in the over-the-counter market, or (iv) through the writing of options. In connection with sales of the Registrable Securities or otherwise, the Selling Securityholder may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the Registrable Securities in the course of hedging the positions they assume. The Selling Securityholder may also sell Registrable Securities short and deliver Registrable Securities to close out such short positions, or loan or pledge Registrable Securities to broker-dealers that in turn may sell such securities.*

State any exceptions here:

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Note: In no event may such method(s) of distribution take the form of an underwritten offering of the Registrable Securities without the prior agreement of the Company.

By signing below, the Selling Securityholder acknowledges that it understands its obligation to comply, and agrees that it will comply, with the prospectus delivery and other provisions of the Securities Act and the Exchange Act and the rules and regulations thereunder, particularly Regulation M.

In the event that the Selling Securityholder transfers all or any portion of the Registrable Securities listed in Item (3) above after the date on which such information is provided to the Company, the Selling Securityholder agrees to notify the transferee(s) at the time of the transfer of its rights and obligations under this Notice and Questionnaire and the Registration Rights Agreement.

By signing below, the Selling Securityholder consents to the disclosure of the information contained herein in its answers to Items (1) through (6) above and the inclusion of such information in the Shelf Registration Statement and related Prospectus. The Selling Securityholder understands that such information will be relied upon by the Company and the Subsidiary Guarantors in connection with the preparation of the Shelf Registration Statement and related Prospectus.

In accordance with the Selling Securityholder's obligation under Section 3(a) of the Registration Rights Agreement to provide such information as may be required by law for inclusion in the Shelf Registration Statement, the Selling Securityholder agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein which may occur subsequent to the date hereof at any time while the Shelf Registration Statement remains in effect. All notices hereunder and pursuant to the Registration Rights Agreement shall be made in writing, by hand-delivery, first-class mail, or air courier guaranteeing overnight delivery as follows:

(i) To the Company and the Subsidiary Guarantors:

Asbury Automotive Group Inc.  
622 Third Avenue, 37th Floor  
New York, New York 10017  
Attention: Secretary

(ii) With a copy to:

Cravath, Swaine & Moore LLP  
825 Eighth Avenue  
New York, New York 10019  
Attention: Andrew J. Pitts

Once this Notice and Questionnaire is executed by the Selling Securityholder and received by the Company, the terms of this Notice and Questionnaire, and the representations and warranties contained herein, shall be binding on, shall inure to the benefit

of and shall be enforceable by the respective successors, heirs, personal representatives, and assigns of the Company and the Selling Securityholder (with respect to the Registrable Securities beneficially owned by such Selling Securityholder and listed in Item (3) above). This Agreement shall be governed in all respects by the laws of the State of New York.

IN WITNESS WHEREOF, the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Selling Securityholder  
(Print/type full legal name of beneficial owner of Registrable Securities)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

PLEASE RETURN THE COMPLETED AND EXECUTED NOTICE AND QUESTIONNAIRE FOR RECEIPT ON OR BEFORE **[DEADLINE FOR RESPONSE]** TO THE COMPANY'S COUNSEL AT:

Cravath, Swaine & Moore LLP

825 Eighth Avenue

New York, NY 10019

Attention: Andrew J. Pitts

**Exhibit 1  
to Appendix A**

#### NOTICE OF TRANSFER PURSUANT TO REGISTRATION STATEMENT

The Bank of New York  
Asbury Automotive Group, Inc.  
c/o The Bank of New York  
101 Barclay Street  
New York, NY 10286

Attention: Trust Officer

Re: Asbury Automotive Group, Inc. (the "Company")  
3.00% Senior Subordinated Convertible Notes due 2012 (the "Notes")

Dear Sirs:

Please be advised that \_\_\_\_\_ has transferred \$ \_\_\_\_\_ aggregate principal amount of the above-referenced Notes or shares of the Company's common stock, issued upon conversion, repurchase or redemption of Notes, pursuant to an effective Registration Statement on Form [ ] (File No. 333- ) filed by the Company.

We hereby certify that the prospectus delivery requirements, if any, of the Securities Act of 1933, as amended, have been satisfied with respect to the transfer described above and that the above-named beneficial owner of the Notes or common stock is named as a selling securityholder in the Prospectus dated **[date]**, or in amendments or supplements thereto, and that the aggregate principal amount of the Notes or number of shares of common stock transferred are **[a portion of]** the Notes or shares of common stock listed in such Prospectus as amended or supplemented opposite such owner's name.

Dated:

Very truly yours,



\_\_\_\_\_  
(Name)

By:

\_\_\_\_\_  
(Authorized Signature)

**To:** Asbury Automotive Group, Inc.  
622 Third Avenue  
37th Floor  
New York, NY 10017

**A/C:** 028613248

**From:** Goldman, Sachs & Co.

**Re:** Convertible Bond Hedge Transaction

**Ref. No:** SDB1625367450

**Date:** March 12, 2007

Dear Sir(s):

The purpose of this communication (this “**Confirmation**”) is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the “**Transaction**”) between Goldman, Sachs & Co. (“**Dealer**”) and Asbury Automotive Group, Inc. (“**Counterparty**”). This communication constitutes a “**Confirmation**” as referred to in the ISDA Master Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2000 ISDA Definitions (including the Annex thereto) (the “**2000 Definitions**”) and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”, and together with the 2000 Definitions, the “**Definitions**”), in each case as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”). In the event of any inconsistency between the 2000 Definitions and the Equity Definitions, the Equity Definitions will govern. Certain defined terms used herein have the meanings assigned to them in the Indenture to be dated as of March 16, 2007 between Counterparty and The Bank of New York, as trustee (the “**Indenture**”) relating to the USD100,000,000 principal amount of 3.00% convertible notes due 2012 (the “**Convertible Notes**”). In the event of any inconsistency between the terms defined in the Indenture and this Confirmation, this Confirmation shall govern. For the avoidance of doubt, references herein to sections of the Indenture are based on the draft of the Indenture most recently reviewed by the parties at the time of execution of this Confirmation. If any relevant sections of the Indenture are changed, added or renumbered prior to execution of the Indenture, the parties will amend this Confirmation in good faith to preserve the economic intent of the parties, as evidenced by such draft of the Indenture. The Transaction is subject to early unwind if the closing of the Convertible Notes is not consummated for any reason, as set forth below in Section 8(k).

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the “**Agreement**”) in the form of the 1992 ISDA Master Agreement as if Dealer and

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Counterparty had executed an agreement in such form on the date hereof (but without any Schedule except for (i) the election of Loss and Second Method in respect of Payments on Early Termination and US Dollars (“**USD**”) as the Termination Currency, and (ii) the replacement of the word “third” in the last line of Section 5(a)(i) of the Agreement with the word “first”, and (iii) the election that the “Cross Default” provisions of Section 5(a)(vi) of the Agreement shall apply to Counterparty with a “Threshold Amount” of USD15 million).

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation except as expressly modified herein. In the event of any inconsistency between this Confirmation and either the Definitions or the Agreement, this Confirmation shall govern.

The Transaction hereunder shall be the sole Transaction under the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered Transactions under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The Transaction constitutes a Share Option Transaction for purposes of the Equity Definitions. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date:	March 12, 2007
Effective Date:	March 16, 2007
Option Style:	Modified American, as described under “Procedures for Exercise” below.

Option Type:	Call
Seller:	Dealer
Buyer:	Counterparty
Shares:	The Common Stock of Counterparty, par value USD0.01 per share (Ticker Symbol: “ABG”).
Number of Options:	The number of Convertible Notes in denominations of USD1,000 principal amount issued by Counterparty on the closing date for the initial issuance of the Convertible Notes; <i>provided</i> that the Number of Options shall be automatically increased as of the date of exercise by the representative of the Initial Purchasers (as defined in the Purchase Agreement) of their option pursuant to Section 2 of the Purchase Agreement dated as of March 12, 2007 between Counterparty and Dealer, as representative of the Initial Purchasers party thereto (the “ <b>Purchase Agreement</b> ”), by the number of Convertible Notes in denominations of USD1,000 principal amount issued pursuant to such exercise (such Convertible Notes, the “ <b>Additional Convertible Notes</b> ”). For the avoidance of doubt, the Number of Options outstanding shall be reduced by each exercise of Options hereunder.

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Option Entitlement:	As of any date, a number of Shares per Option equal to the Conversion Rate (as defined in the Indenture, but without regard to any adjustments to the Conversion Rate pursuant to Sections 13.01(e) or 13.04(f) of the Indenture).
Strike Price:	As of any date, an amount in USD, rounded to the nearest cent (with 0.5 cents being rounded upwards), equal to USD1,000 <i>divided by</i> the Option Entitlement.
Number of Shares:	The product of the Number of Options, the Option Entitlement and the Applicable Percentage.
Applicable Percentage:	40%
Premium:	USD6,716,000 (Premium per Option USD67.16); <i>provided</i> that if the Number of Options is increased pursuant to the proviso to the definition of “Number of Options” above, an additional Premium equal to the product of the number of Options by which the Number of Options is so increased and the Premium per Option shall be paid on the Additional Premium Payment Date.
Premium Payment Date:	The Effective Date
Additional Premium Payment Date:	The closing date for the purchase and sale of the Additional Convertible Notes.
Exchange:	New York Stock Exchange
Related Exchange:	All Exchanges
Procedures for Exercise:	
Exercise Date:	Each Conversion Date.
Conversion Date:	Each “Conversion Date”, as defined in the Indenture occurring during the Exercise Period for Convertible Notes (such Convertible Notes, the “ <b>Relevant Convertible Notes</b> ” for such Conversion Date).
Exercise Period:	The period from and excluding the Trade Date to and including the Expiration Date.
Expiration Date:	The earlier of (i) the last day on which any Convertible Notes remain outstanding and (ii) the third Scheduled Trading Day immediately preceding September 15, 2012 (the “ <b>Maturity Date</b> ”)
Scheduled Trading Day:	As defined in the Indenture.
VWAP Trading Day:	As defined in the Indenture.
Required Exercise on Conversion Dates:	On each Conversion Date, a number of Options equal to the number of Relevant Convertible Notes for such Conversion Date in denominations of USD1,000 principal amount shall be automatically exercised, subject to “Notice of Exercise” below.

Equity Definitions, Dealer shall have no obligation to make any payment or delivery in respect of any exercise of Options hereunder unless Counterparty notifies Dealer in writing prior to 5:00 P.M., New York City time, on the Scheduled Trading Day prior to the first Exchange Business Day of the "Observation Period", as defined in the Indenture, relating to the Relevant Convertible Notes converted on the relevant Conversion Date on which such Exercise Date occurs (the "**Notice Deadline**") of (i) the number of Options being exercised on such Exercise Date, (ii) the scheduled settlement date under the Indenture for the Relevant Convertible Notes converted on the relevant Conversion Date and (iii) the first Scheduled Trading Day of the relevant Observation Period. Notwithstanding the foregoing, (x) in respect of Options with an Exercise Date occurring during the period from and including the 35<sup>th</sup> Scheduled Trading Day prior to the Maturity Date to and including the Expiration Date (the "**Final Conversion Period**"), the Notice Deadline shall be 12:00 noon, New York City time on the Scheduled Trading Day immediately following the Expiration Date and the content of such notice shall be as set forth in clauses (i) and (ii) above as they relate to all Exercise Dates occurring during the Final Conversion Period and (y) such notice (and the related automatic exercise of Options) shall be effective if given after the Notice Deadline but prior to 5:00 P.M., New York City time, on the fifth Scheduled Trading Day of such Observation Period, in which event the Calculation Agent shall have the right to adjust the Delivery Obligation (as defined below) as appropriate to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer or any of its affiliates in connection with hedging activities (including the unwinding of any hedge position) as a result of Dealer not having received such notice prior to the Notice Deadline. For the avoidance of doubt, if Counterparty fails to give such notice when due in respect of any exercise of Options hereunder, Dealer's obligations to make any payment or delivery in respect of such exercise shall be permanently extinguished, and late notice shall not cure such failure.

Dealer's Telephone Number  
and Telex and/or Facsimile Number  
and Contact Details for purpose of  
Giving Notice:

To: Goldman, Sachs & Co.  
One New York Plaza  
New York, NY 10004

Attn: Equity Operations:  
Options and Derivatives

Telephone: (212) 902-8996  
Facsimile: (212) 902-0112

With a copy to:

Attn: Tracey McCabe  
Equity Capital Markets

Telephone: (212) 357-0428  
Facsimile: (212) 902-3000

Settlement Terms:

Settlement Date:

For any Exercise Date, the settlement date for the Shares to be delivered in respect of the Relevant Convertible Notes for the relevant Conversion Date under the terms of the Indenture.

Delivery Obligation:	<p>In lieu of the obligations set forth in Sections 8.1 and 9.1 of the Equity Definitions, and subject to “Notice of Exercise” above, in respect of any Exercise Date, Dealer will deliver to Counterparty, on the related Settlement Date, a number of Shares equal to the product of the Applicable Percentage and the aggregate number of Shares, if any (and cash in lieu of fractional Shares, if any) that Counterparty is obligated to deliver to the holder(s) of the Relevant Convertible Notes for the corresponding Conversion Date pursuant to Section 13.02 of the Indenture (such Shares, the “<b>Convertible Obligation</b>”); <i>provided</i> that such obligation shall be determined excluding any Shares (and cash in lieu of fractional Shares) that Counterparty is obligated to deliver to holder(s) of the Relevant Convertible Notes as a direct or indirect result of any adjustments to the Conversion Rate pursuant to Sections 13.01(e) or 13.04(f) of the Indenture and any interest payment that the Counterparty is obligated to deliver to holder(s) of the Relevant Convertible Note. For the avoidance of doubt, in respect of any Exercise Date, if the “Daily Conversion Value”, as defined in the Indenture, for each VWAP Trading Day during the relevant Observation Period is less than or equal to USD33.33 in the case of the first 20 VWAP Trading Days and USD33.34 in the case of the last 10 VWAP Trading Days, as the case may be, for each VWAP Trading Day in the Observation Period, Dealer will have no delivery obligation hereunder in respect of such Exercise Date.</p>
Notice of Delivery Obligation:	<p>No later than the Exchange Business Day immediately following the last day of the Observation Period, Counterparty shall give Dealer notice of the final number of Shares and/or the amount of cash comprising the Convertible Obligation; <i>provided</i> that, with respect to any Exercise Date occurring during the Final Conversion Period, Counterparty may provide Dealer with a</p>
<div>5</div> <hr/>	
	<p>single notice of the aggregate number of Shares and/or the amount of cash comprising the Convertible Obligations for all such Exercise Dates (it being understood, for the avoidance of doubt, that the requirement of Counterparty to deliver such notice shall not limit Counterparty’s obligations with respect to Notice of Exercise, as set forth above, in any way).</p>
Other Applicable Provisions:	<p>To the extent Dealer is obligated to deliver Shares hereunder, the provisions of Sections 9.1(c), 9.8, 9.9, 9.10, 9.11 and 9.12 of the Equity Definitions will be applicable as if “Physical Settlement” applied to the Transaction; <i>provided</i> that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws that exist as a result of the fact that Counterparty is the issuer of the Shares.</p>
Restricted Certificated Shares:	<p>Notwithstanding anything to the contrary in the Equity Definitions, Dealer may, in whole or in part, deliver Shares in certificated form representing the Number of Shares to be Delivered to Counterparty in lieu of delivery through the Clearance System.</p>
Adjustments:	
Method of Adjustment:	<p>Notwithstanding Section 11.2 of the Equity Definitions, upon the occurrence of any event or condition set forth in Sections 13.04(a), (b), (c), (d) and (e) of the Indenture, the Calculation Agent shall make the corresponding adjustment in respect of any one or more of the Number of Options, the Option Entitlement and any other variable relevant to the exercise, settlement or payment of the Transaction, to the extent an analogous adjustment is made under the Indenture. Promptly following the occurrence of any Adjustment Event, as defined in the Indenture, Counterparty shall notify the Calculation Agent of such Adjustment Event; and once the adjustments to be made to the terms of the Indenture and the Convertible Notes in respect of such Adjustment Event have been determined, Counterparty shall promptly notify the Calculation Agent in writing of the details of such adjustments. The Calculation Agent shall, promptly after receiving such notice, make any corresponding adjustments to the terms of the Transaction and notify Dealer and Counterparty thereof. In addition, at least 10 Scheduled Trading Days prior to the ex-dividend date for any cash dividend or distribution that would constitute the occurrence of an Adjustment Event set forth in Section 13.04(d) of the Indenture and not earlier than the public announcement by Counterparty of such dividend or distribution, Counterparty shall notify the Calculation Agent of such Adjustment Event and the</p>

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ex-dividend date for such cash dividend or distribution.

Extraordinary Events:

Merger Events:	Notwithstanding Section 12.1(b) of the Equity Definitions, a “Merger Event” means the occurrence of any event or condition set forth in Section 13.10 of the Indenture.
Consequences of Merger Events:	Notwithstanding Section 12.2 of the Equity Definitions, upon the occurrence of a Merger Event, the Calculation Agent shall make the corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares, the Number of Options, the Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction, to the extent an analogous adjustment is made under the Indenture in respect of such Merger Event; <i>provided</i> that such adjustment shall be made without regard to any adjustment to the Conversion Rate for the issuance of additional shares as set forth in Section 13.04(f) of the Indenture.
Notice of Merger Consideration:	Upon the occurrence of a Merger Event that causes the Shares to be converted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), Counterparty shall reasonably promptly (but in any event prior to the Merger Date) notify the Calculation Agent of the weighted average of the types and amounts of consideration to be received by the holders of Shares entitled to receive cash, securities or other property or assets with respect to or in exchange for such Shares in any Merger Event who affirmatively make such an election.
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); <i>provided</i> that in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange. For the avoidance of doubt, the occurrence of any event that is a Merger Event and would also constitute a Delisting shall first have the consequences specified for the relevant Merger Event and following that have the consequences specified for the relevant Delisting.

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Additional Disruption Events:		
(a)	Change in Law:	Applicable
(b)	Failure to Deliver:	Applicable
(c)	Insolvency Filing:	Applicable
(d)	Hedging Disruption:	Applicable
(e)	Increased Cost of Hedging:	Applicable
Hedging Party:		For all applicable Additional Disruption Events, Dealer
Determining Party:		For all applicable Additional Disruption Events, Dealer
Non-Reliance:		Applicable
Agreements and Acknowledgments Regarding Hedging Activities:		Applicable
Additional Acknowledgments:		Applicable

3. Calculation Agent: Dealer. The Calculation Agent shall, upon request by either party, provide a written explanation of any calculation made by it including, where applicable, a description of the methodology and data applied.

4. Account Details:

Dealer Payment Instructions:

Chase Manhattan Bank New York  
For A/C Goldman, Sachs & Co.  
A/C #930-1-011483  
ABA: 021-000021

Counterparty Payment Instructions:

To be provided by Counterparty.

5. Offices:

The Office of Dealer for the Transaction is:

One New York Plaza, New York, New York 10004

The Office of Counterparty for the Transaction is:

622 Third Avenue, 37<sup>th</sup> Floor, New York, New York 10017

6. Notices: For purposes of this Confirmation:

(a) Address for notices or communications to Counterparty:

To:	Asbury Automotive Group 622 Third Avenue, 37th Floor New York, NY 10017
Attn:	Chief Financial Officer
Telephone:	212-885-2500
Facsimile:	212-297-2645

With a copy to:

Attn:	General Counsel
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Facsimile: 212-297-2653

(b) Address for notices or communications to Dealer:

To:	Goldman, Sachs & Co. One New York Plaza New York, NY 10004
Attn:	Equity Operations: Options and Derivatives
Telephone:	(212) 902-1981
Facsimile:	(212) 428-1980/1983

With a copy to:

Attn:	Tracey McCabe Equity Capital Markets
Telephone:	(212) 357-0428
Facsimile:	(212) 902-3000

7. Representations, Warranties and Agreements:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date, (A) none of Counterparty and its officers and directors is aware of any material nonpublic information regarding Counterparty or the Shares and (B) all reports and other documents filed by Counterparty with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), when considered as a whole (with the more recent such reports and documents deemed to supercede inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) (A) On the Trade Date, the Shares or securities that are convertible into, or exchangeable or exercisable for Shares, are not, and shall not be, subject to a “restricted period,” as such term is defined in Regulation M under the Exchange Act (“**Regulation M**”) as a result of activity by Counterparty or its affiliates or as a result of activity known to Counterparty and (B) Counterparty shall not engage in any “distribution,” as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b)(10) and 102(b)(7) of Regulation M, until the second Exchange Business Day immediately following the Trade Date.

(iii) On the Trade Date, neither Counterparty nor any “affiliate” or “affiliated purchaser” (each as defined in Rule 10b-18 of the Exchange Act (“**Rule 10b-18**”)) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except through Goldman, Sachs & Co.

(iv) Counterparty acknowledges that neither Dealer nor any of its affiliates is making any representations or warranties with respect to the treatment of the Transaction under FASB Statements 128, 133 (as amended), 149 or 150, EITF Issue Nos. 00-19, 01-06 or 03-06 (or any successor issue statements) or under FASB’s Liabilities & Equity Project.

(v) Without limiting the generality of Section 3(a)(iii) of the Agreement, the Transaction will not violate Rule 13e-1 or Rule 13e-4 under the Exchange Act.

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(vi) Prior to the Trade Date, Counterparty shall deliver to Dealer a resolution of Counterparty’s board of directors authorizing the Transaction and such other certificate or certificates as Dealer shall reasonably request.

(vii) Counterparty is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.

(viii) Counterparty is not, and after giving effect to the transactions contemplated hereby will not be, required to register as, an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.

(ix) On each of the Trade Date, and the Premium Payment Date and the Additional Premium Payment Date, if any, Counterparty is not “insolvent” (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”)) and Counterparty would be able to purchase the Shares hereunder in compliance with the laws of the jurisdiction of Counterparty’s incorporation.

(x) The representations and warranties of Counterparty set forth in Section 3 of the Agreement and Section 1 of the Purchase Agreement are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein.

(b) Each of Dealer and Counterparty agrees and represents that it is an “eligible contract participant” as defined in Section 1a(12) of the U.S. Commodity Exchange Act, as amended.

(c) Each of Dealer and Counterparty acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act of 1933, as amended (the “**Securities Act**”), by virtue of Section 4(2) thereof. Accordingly, Counterparty represents and warrants to Dealer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment and its investments in and liabilities in respect of the Transaction, which it understands are not readily marketable, are not disproportionate to its net worth, and it is able to bear any loss in connection with the Transaction, including the loss of its entire investment in the Transaction, (ii) it is an “accredited investor” as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account, (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws, and (v) its financial condition is such that it has no need for liquidity with respect to its investment in the Transaction and no need to dispose of any portion thereof to satisfy any existing or contemplated undertaking or indebtedness and is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the Transaction.

(d) Each of Dealer and Counterparty agrees and acknowledges (A) that this Confirmation is (i) a “securities contract,” as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a “settlement payment,” as such term is defined in Section 741(8) of the Bankruptcy Code, and (ii) a “swap agreement,” as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a “transfer,” as such term is defined in Section 101(54) of the Bankruptcy Code, and (B) that Dealer is entitled to the protections afforded by, among other sections, Section 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code.

(e) Each party acknowledges and agrees to be bound by the Conduct Rules of the National Association of Securities Dealers, Inc. applicable to transactions in options, and further agrees not to violate the position and exercise limits set forth therein.

(f) Counterparty shall deliver to Dealer an opinion of counsel, dated as of the Trade Date and reasonably acceptable to Dealer in form and substance, with respect to the matters set forth in Section 3(a) of the Agreement.



## 8. Other Provisions:

(a) *Right to Extend.* Dealer may postpone any Exercise Date or any other date of valuation or delivery by Dealer, with respect to some or all of the relevant Options (in which event the Calculation Agent shall make appropriate adjustments to the Delivery Obligation), if Dealer determines, in its reasonable discretion, that such extension is reasonably necessary or appropriate to preserve Dealer's hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the cash market or the stock borrow market or to enable Dealer to effect purchases of Shares in connection with its hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer.

(b) *Additional Termination Events.* The occurrence of (i) an event of default with respect to Counterparty under the terms of the Convertible Notes as set forth in Section 6.01 of the Indenture, or (ii) an Amendment Event shall be an Additional Termination Event with respect to which the Transaction is the sole Affected Transaction and Counterparty is the sole Affected Party, and Dealer shall be the party entitled to designate an Early Termination Amount pursuant to Section 6(b) of the Agreement and to determine the Early Termination Amount pursuant to Section 6(e)(ii)(1) of the Agreement.

**"Amendment Event"** means that Counterparty amends, modifies, supplements or receives a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion price, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend, in each case without the prior consent of Dealer, such consent not to be unreasonably withheld.

(c) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events.* If, subject to Section 8(i) below, Dealer shall owe Counterparty any amount pursuant to Section 12.2 of the Equity Definitions and "Consequences of Merger Events" above, or Sections 12.3, 12.6, 12.7 or 12.9 of the Equity Definitions (except in the event of an Extraordinary Event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash) or pursuant to Section 6(d)(ii) of the Agreement (except in the event of an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, that resulted from an event or events within Counterparty's control) (a **"Payment Obligation"**), Counterparty shall have the right, in its sole discretion, to require Dealer to satisfy any such Payment Obligation by the Share Termination Alternative (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, between the hours of 9:00 A.M. and 4:00 P.M., New York City time, on the Merger Date, Announcement Date or Early Termination Date, as applicable (**"Notice of Share Termination"**). Upon such Notice of Share Termination, the following provisions shall apply on the Scheduled Trading Day immediately following the Merger Date, Announcement Date or Early Termination Date, as applicable:

Share Termination Alternative: Applicable and means that Dealer shall deliver to Counterparty the Share Termination Delivery Property on the date on which the Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) of the Agreement, as applicable (the **"Share Termination Payment Date"**), in satisfaction of the Payment Obligation.

Share Termination Delivery Property: A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.

Share Termination Unit Price: The value of property contained in one Share Termination Delivery Unit on the date such Share Termination Delivery Units are to be delivered as Share Termination Delivery Property, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Dealer and Counterparty at the time of notification of the Payment Obligation.

Share Termination Delivery Unit: In the case of a Termination Event, Event of Default or Delisting, one Share or, in the case of an Insolvency, Nationalization or Merger Event, a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency, Nationalization or Merger Event. If such Insolvency, Nationalization or Merger Event involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

Failure to Deliver: Applicable

Other applicable provisions: If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9, 9.10, 9.11 and 9.12 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction, except that all references to "Shares" shall be read as references to "Share Termination Delivery Units"; and *provided that* the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws as a result of the fact that Counterparty is the issuer of any Share Termination Delivery Units (or any part thereof).

(d) *Disposition of Hedge Shares.* Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, the Shares (the “**Hedge Shares**”) acquired by Dealer for the purpose of hedging its obligations pursuant to the Transaction cannot be sold in the U.S. public market by Dealer without registration under the Securities Act, Counterparty shall, at its election: (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act to cover the resale of such Hedge Shares and (A) enter into an agreement, in form and substance satisfactory to Dealer, substantially in the form of an underwriting agreement for a registered offering, (B) provide accountant’s “comfort” letters in customary form for registered offerings of equity securities, (C) provide disclosure opinions of nationally recognized outside counsel to Counterparty reasonably acceptable to Dealer, (D) provide other customary opinions, certificates and closing documents customary in form for registered offerings of equity securities and (E) afford Dealer a reasonable opportunity to conduct a “due diligence” investigation with respect to Counterparty customary in scope for underwritten offerings of equity securities; *provided, however*, that if Dealer, in its reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this Section 8(d) shall apply at the election of Counterparty; (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities, in form and substance satisfactory to Dealer, including customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Hedge Shares from Dealer), opinions and certificates and such other documentation as is customary for private placements agreements, all reasonably acceptable to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its reasonable judgment, to compensate Dealer for any discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement); or (iii) purchase the Hedge Shares from Dealer at the VWAP Price on such Exchange Business Days, and in the amounts, requested by Dealer. “**VWAP Price**” means, on any Exchange Business Day, the per Share volume-weighted average

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price as displayed under the heading “Bloomberg VWAP” on Bloomberg page ABG.N <equity> AQR (or any successor thereto) in respect of the period from 9:30 A.M. to 4:00 P.M., New York City time, on such Exchange Business Day (or if such volume-weighted average price is unavailable or manifestly incorrect, the market value of one Share on such Exchange Business Day, as determined by the Calculation Agent using a volume-weighted method).

(e) *Repurchase Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a “**Repurchase Notice**”) on such day if, following such repurchase, the Notice Percentage as determined on such day is (i) greater than 6.0% and (ii) greater by 0.5% than the Notice Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater than the Notice Percentage as of the date hereof). The “**Notice Percentage**” as of any day is the fraction, expressed as a percentage, the numerator of which is the Number of Shares and the denominator of which is the number of Shares outstanding on such day. In the event that Counterparty fails to provide Dealer with a Repurchase Notice on the day and in the manner specified in this Section 8(e) then Counterparty agrees to indemnify and hold harmless Dealer and its directors, officers, employees, agents and controlling persons (Dealer and each such person being an “**Indemnified Party**”) from and against any and all losses, claims, damages and liabilities (or actions in respect thereof), joint or several, to which such Indemnified Party may become subject under applicable securities laws, including without limitation, Section 16 of the Exchange Act, relating to or arising out of such failure. If for any reason the foregoing indemnification is unavailable to any Indemnified Party or insufficient to hold harmless any Indemnified Party, then Counterparty shall contribute, to the maximum extent permitted by law, to the amount paid or payable by the Indemnified Party as a result of such loss, claim, damage or liability. In addition, Counterparty will reimburse any Indemnified Party for all expenses (including reasonable counsel fees and expenses) as they are incurred (after notice to Counterparty) in connection with the investigation of, preparation for or defense or settlement of any pending or threatened claim or any action, suit or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto and whether or not such claim, action, suit or proceeding is initiated or brought by or on behalf of Counterparty. This indemnity shall survive the completion of the Transaction contemplated by this Confirmation and any assignment and delegation of the Transaction made pursuant to this Confirmation or the Agreement shall inure to the benefit of any permitted assignee of Dealer.

(f) *Transfer and Assignment.* Neither party may transfer or assign its rights and obligations hereunder and under the Agreement, in whole or in part, without the consent of non-transferring party; *provided*, that Dealer may transfer or assign without any consent of Counterparty its rights and obligations hereunder, in whole or in part, to (x) any of its affiliates, so long as the obligations of such affiliate hereunder are guaranteed by The Goldman Sachs Group, Inc. or (y) any third party with a rating (or whose guarantor has a rating) for its long term, unsecured and unsubordinated indebtedness of A or better by Standard & Poor’s Ratings Services or its successor (“**S&P**”), or A2 or better by Moody’s Investors Service (“**Moody’s**”) or, if either S&P or Moody’s ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided further* that at any time at which the Equity Percentage exceeds 9.0%, if Dealer, in its discretion, is unable to effect a transfer or assignment to a third party in accordance with the provisions set forth above after its commercially reasonable efforts on pricing terms reasonably acceptable to Dealer such that the Equity Percentage is reduced to 8.5% or less, Dealer may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the “**Terminated Portion**”) of the Transaction, such that the Equity Percentage following such partial termination will be equal to or less than 8.5%. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment or delivery shall be made pursuant to Section 6 of the Agreement and Section 8(c) of this Confirmation as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction, (ii) Counterparty shall be the sole Affected Party with respect to such partial termination and (iii) such portion of the Transaction shall be the only Terminated Transaction. The “**Equity Percentage**” as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares “beneficially owned” (within the meaning of Section 13 of the Exchange Act) on such day by Dealer, any of its affiliates subject to aggregation with Dealer for the purposes of the “beneficial ownership” test under Section 13 of the Exchange Act and all persons who may form a “group” (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer with respect to “beneficial ownership”

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of any Shares, including, in each case, without limitation, any Shares so owned as a hedge of the Transaction or a related transaction and Shares the “beneficial ownership” of which Dealer or Hedging Party has the right to acquire pursuant to a transaction related to the Transaction, and (B) the denominator of which is the number of Shares outstanding on such day. Counterparty may transfer or assign its rights and obligations hereunder and under the Agreement, in whole or in part, to any party with the consent of Dealer, such consent not to be unreasonably withheld.

(g) *Staggered Settlement.* If the Staggered Settlement Equity Percentage as of any Exchange Business Day during any Observation Period is greater than 4.5%, Dealer may, by notice to Counterparty prior to the related Settlement Date (the “**Nominal Settlement Date**”), elect to deliver the Shares on two or more dates (each, a “**Staggered Settlement Date**”) or at two or more times on the Nominal Settlement Date as follows:

(i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to such Nominal Settlement Date, but not prior to the beginning of the related Observation Period) or delivery times and how it will allocate the Shares it is required to deliver under “Delivery Obligation” (above) among the Staggered Settlement Dates or delivery times; and

(ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates and delivery times will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date.

The “**Staggered Settlement Equity Percentage**” as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (i) the number of Shares “beneficially owned” (within the meaning of Section 13 of the Exchange Act) on such day by Dealer, any of its affiliates subject to aggregation with Dealer for the purposes of the “beneficial ownership” test under Section 13 of the Exchange Act and all persons who may form a “group” (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer with respect to “beneficial ownership” of any Shares, excluding Shares so owned as a hedge of the Transaction, plus (ii) the Number of Shares and (B) the denominator of which is the number of Shares outstanding on such day.

(h) *Disclosure.* Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.

(i) *Netting and Set-off.*

(i) If on any date cash would otherwise be payable or Shares or other property would otherwise be deliverable hereunder or pursuant to the Agreement or pursuant to any other agreement between the parties by Counterparty to Dealer and cash would otherwise be payable or Shares or other property would otherwise be deliverable hereunder or pursuant to the Agreement or pursuant to any other agreement between the parties by Dealer to Counterparty and the type of property required to be paid or delivered by each such party on such date is the same, then, on such date, each such party’s obligation to make such payment or delivery will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable or deliverable by one such party exceeds the aggregate amount that would otherwise have been payable or deliverable by the other such party, replaced by an obligation of the party by whom the larger aggregate amount would have been payable or deliverable to pay or deliver to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

(ii) In addition to and without limiting any rights of set-off that a party hereto may have as a matter of law, pursuant to contract or otherwise, upon the occurrence of an Early Termination Date, Dealer shall have the right to terminate, liquidate and otherwise close out the Transaction and to set off any obligation or right that Dealer or any affiliate of Dealer may have to or against Counterparty hereunder or under the Agreement against any right or obligation Dealer or any of its affiliates may have against or to Counterparty, including without limitation any right to receive a payment or delivery pursuant to any provision of the Agreement or hereunder. In the

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case of a set-off of any obligation to release, deliver or pay assets against any right to receive assets of the same type, such obligation and right shall be set off in kind. In the case of a set-off of any obligation to release, deliver or pay assets against any right to receive assets of any other type, the value of each such obligation and such right shall be determined by the Calculation Agent and the result of such set-off shall be that the net obligor shall pay or deliver to the other party an amount of cash or assets, at the net obligor’s option, with a value (determined, in the case of a delivery of assets, by the Calculation Agent) equal to that of the net obligation. In determining the value of any obligation to release or deliver Shares or any right to receive Shares, the value at any time of such obligation or right shall be determined by reference to the market value of the Shares at such time, as determined by the Calculation Agent. If an obligation or right is unascertained at the time of any such set-off, the Calculation Agent may in good faith estimate the amount or value of such obligation or right, in which case set-off will be effected in respect of that estimate, and the relevant party shall account to the other party at the time such obligation or right is ascertained.

(iii) Notwithstanding any provision of the Agreement (including without limitation Section 6(f) thereof) and this Confirmation (including without limitation this Section 8(i)) or any other agreement between the parties to the contrary, (A) Counterparty shall not net or set off its obligations under the Transaction, if any, against its rights against Dealer under any other transaction or instrument and (B) Dealer may net and set off any rights of Dealer against Counterparty arising under the Transaction only against obligations of Dealer to Counterparty arising under any transaction or instrument if such transaction or instrument does not convey rights to Dealer senior to the claims of common stockholders in the event of Counterparty’s bankruptcy. Dealer will give notice to Counterparty of any netting or set off effected under this provision.

(j) *Equity Rights.* Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in the event of Counterparty’s bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Counterparty’s bankruptcy to any claim arising as a result of a breach by Counterparty of any of its obligations under this Confirmation or the Agreement.

(k) *Early Unwind.* In the event the sale by Counterparty of the Convertible Notes is not consummated with the initial purchasers pursuant to the Purchase Agreement for any reason by the close of business in New York on March 16, 2007 (or such later date as agreed upon by the parties, which in no event shall be later than March 23, 2007) (March 16, 2007 or such later date being the “**Early Unwind Date**”), the Transaction shall automatically terminate (the “**Early Unwind**”), on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty thereunder shall be cancelled and terminated and (ii) Counterparty shall pay to Dealer, other than in cases involving a breach of the Purchase Agreement by the initial purchasers, an amount in cash equal to the aggregate amount of costs and expenses relating to the unwinding of Dealer’s hedging activities in respect of the Transaction (including market losses incurred in reselling any Shares purchased by Dealer or its affiliates in connection with such hedging activities, unless Counterparty agrees to purchase any such Shares at the cost at which Dealer purchased such Shares). Following such termination, cancellation and payment, each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of either party arising out of and to be performed in connection with the Transaction either prior to or after

the Early Unwind Date. Dealer and Counterparty represent and acknowledge to the other that upon an Early Unwind and following the payment referred to above, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

(l) *Governing Law.* **THE AGREEMENT AND THIS CONFIRMATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO ITS CHOICE OF LAW DOCTRINE).**

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**9. Arbitration.**

(a) All parties to this Confirmation are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.

(b) Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.

(c) The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.

(d) The arbitrators do not have to explain the reason(s) for their award.

(e) The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry, unless Counterparty is a member of the organization sponsoring the arbitration facility, in which case all arbitrators may be affiliated with the securities industry.

(f) The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.

(g) The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this Confirmation.

(h) Counterparty agrees that any and all controversies that may arise between Counterparty and Dealer, including, but not limited to, those arising out of or relating to the Agreement or the Transaction hereunder, shall be determined by arbitration conducted before The New York Stock Exchange, Inc. ("NYSE") or NASD Dispute Resolution ("NASD-DR"), or, if the NYSE and NASD-DR decline to hear the matter, before the American Arbitration Association, in accordance with their arbitration rules then in force. The award of the arbitrator shall be final, and judgment upon the award rendered may be entered in any court, state or federal, having jurisdiction.

(i) No person shall bring a putative or certified class action to arbitration, nor seek to enforce any pre-dispute arbitration agreement against any person who has initiated in court a putative class action or who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action until: (i) the class certification is denied; (ii) the class is decertified; or (iii) Counterparty is excluded from the class by the court.

(j) Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this Confirmation except to the extent stated herein.

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Counterparty hereby agrees (a) to check this Confirmation carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by Dealer) correctly sets forth the terms of the agreement between Dealer and Counterparty with respect to the Transaction, by manually signing this Confirmation or this page hereof as evidence of agreement to such terms and providing the other information requested herein and immediately returning an executed copy to Equity Derivatives Documentation Department, Facsimile No. (212) 428-1980/83.

Yours faithfully,

**GOLDMAN, SACHS & CO.**

By: /s/ Debra Tageldein, Vice President  
Authorized Signatory

Agreed and Accepted By:

**ASBURY AUTOMOTIVE GROUP, INC.**

By: /s/ J. Gordon Smith



Deutsche Bank



Deutsche Bank AG, London Branch  
 Winchesterhouse  
 1 Great Winchester St,  
 London EC2N 2DB  
 Telephone: 44 20 7545 8000

c/o Deutsche Bank AG, New York  
 60 Wall Street  
 New York, NY 10005  
 Telephone: 212-250-2500

Internal Reference: 165917

**DATE:** March 12, 2007

**TO:** Asbury Automotive Group  
 622 Third Avenue, 37th Floor  
 New York, NY 10017

**ATTENTION:** Chief Financial Officer

**TELEPHONE:** 212-885-2500

**FACSIMILE:** 212-297-2645

**FROM:** Deutsche Bank AG London

**TELEPHONE:** + 44 20 7545 8193

**FACSIMILE:** + 44 11 3336 2009

**SUBJECT:** Convertible Bond Hedge Transaction

**REFERENCE NUMBER(S):** 165917

The purpose of this communication (this "**Confirmation**") is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the "**Transaction**") between Deutsche Bank AG acting through its London Branch ("**Dealer**") and Asbury Automotive Group, Inc. ("**Counterparty**"). This communication constitutes a "**Confirmation**" as referred to in the ISDA Master Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2000 ISDA Definitions (including the Annex thereto) (the "**2000 Definitions**") and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**"), and together with the 2000 Definitions, the "**Definitions**", in each case as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**"). In the event of any inconsistency between the 2000 Definitions and the Equity Definitions, the

Chairman of the Supervisory Board: Clemens Börsig

Board of Managing Directors: Hermann-Josef Lamberti, Josef Ackermann,  
 Tessen von Heydebreck, Anthony DiIorio, Hugo Banziger

Deutsche Bank AG is regulated by the FSA for the conduct of designated investment business in the UK, is a member of the London Stock Exchange and is a limited liability company incorporated in the Federal Republic of Germany HRB No. 30 000 District Court of Frankfurt am Main; Branch Registration No. in England and Wales BR000005, Registered address: Winchester House, 1 Great Winchester Street, London EC2N 2DB.

Equity Definitions will govern. Certain defined terms used herein have the meanings assigned to them in the Indenture to be dated as of March 16, 2007 between Counterparty and The Bank of New York, as trustee (the "**Indenture**") relating to the USD100,000,000 principal amount of 3.00% convertible notes due 2012 (the "**Convertible Notes**"). In the event of any inconsistency between the terms defined in the Indenture and this Confirmation, this Confirmation shall govern. For the avoidance of doubt, references herein to sections of the Indenture are based on the draft of the Indenture most recently reviewed by the parties at the time of execution of this Confirmation. If any relevant sections of the Indenture are changed, added or renumbered prior to execution of the Indenture, the parties will amend this Confirmation in good faith to preserve the economic intent of the parties, as evidenced by such draft of the Indenture. The Transaction is subject to early unwind if the closing of the Convertible Notes is not consummated for any reason, as set forth below in Section 8(k).

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties' entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the "**Agreement**") in the form of the 1992 ISDA Master Agreement as if Dealer and Counterparty had executed an agreement in such form on the date hereof (but without any Schedule except for (i) the election of Loss and Second Method in respect of Payments on Early Termination and US Dollars ("**USD**") as the Termination Currency, and (ii) the replacement of the word "third" in the last line of Section 5(a)(i) of the Agreement with the word "first", and (iii) the election that the "Cross Default" provisions of Section 5(a)(vi) of the Agreement shall apply to Counterparty with a "Threshold Amount" of USD15 million).

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation except as expressly modified herein. In the event of any inconsistency between this Confirmation and either the Definitions or the Agreement, this Confirmation shall govern.

The Transaction hereunder shall be the sole Transaction under the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered Transactions under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

**DEUTSCHE BANK AG IS NOT REGISTERED AS A BROKER DEALER UNDER THE U.S. SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. DEUTSCHE BANK AG, NEW YORK BRANCH HAS ACTED SOLELY AS AGENT IN CONNECTION WITH THE TRANSACTION AND HAS NO OBLIGATION, BY WAY OF ISSUANCE, ENDORSEMENT, GUARANTEE OR OTHERWISE WITH RESPECT TO THE PERFORMANCE OF EITHER PARTY UNDER THE TRANSACTION. DEUTSCHE BANK AG, LONDON BRANCH IS NOT A MEMBER OF THE SECURITIES INVESTOR PROTECTION CORPORATION (SIPC).**

2. The Transaction constitutes a Share Option Transaction for purposes of the Equity Definitions. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date:	March 12, 2007
Effective Date:	March 16, 2007
Option Style:	Modified American, as described under “Procedures for Exercise” below.

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Option Type:	Call
Seller:	Dealer
Buyer:	Counterparty
Shares:	The Common Stock of Counterparty, par value USD0.01 per share (Ticker Symbol: “ABG”).
Number of Options:	The number of Convertible Notes in denominations of USD1,000 principal amount issued by Counterparty on the closing date for the initial issuance of the Convertible Notes; <i>provided</i> that the Number of Options shall be automatically increased as of the date of exercise by the representative of the Initial Purchasers (as defined in the Purchase Agreement) of their option pursuant to Section 2 of the Purchase Agreement dated as of March 12, 2007 between Counterparty and Dealer, as representative of the Initial Purchasers party thereto (the “ <b>Purchase Agreement</b> ”), by the number of Convertible Notes in denominations of USD1,000 principal amount issued pursuant to such exercise (such Convertible Notes, the “ <b>Additional Convertible Notes</b> ”). For the avoidance of doubt, the Number of Options outstanding shall be reduced by each exercise of Options hereunder.
Option Entitlement:	As of any date, a number of Shares per Option equal to the Conversion Rate (as defined in the Indenture, but without regard to any adjustments to the Conversion Rate pursuant to Sections 13.01(e) or 13.04(f) of the Indenture).
Strike Price:	As of any date, an amount in USD, rounded to the nearest cent (with 0.5 cents being rounded upwards), equal to USD1,000 <i>divided by</i> the Option Entitlement.
Number of Shares:	The product of the Number of Options, the Option Entitlement and the Applicable Percentage.
Applicable Percentage:	60%
Premium:	USD10,074,000 (Premium per Option USD100.74); <i>provided</i> that if the Number of Options is increased pursuant to the proviso to the definition of “Number of Options” above, an additional Premium equal to the product of the number of Options by which the Number of Options is so increased and the Premium per Option shall be paid on the Additional Premium Payment Date.
Premium Payment Date:	The Effective Date
Additional Premium Payment Date:	The closing date for the purchase and sale of the Additional Convertible Notes.
Exchange:	New York Stock Exchange

Related Exchange:	All Exchanges
Procedures for Exercise:	
Exercise Date:	Each Conversion Date.
Conversion Date:	Each “Conversion Date”, as defined in the Indenture occurring during the Exercise Period for Convertible

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	Notes (such Convertible Notes, the “ <b>Relevant Convertible Notes</b> ” for such Conversion Date).
Exercise Period:	The period from and excluding the Trade Date to and including the Expiration Date.
Expiration Date:	The earlier of (i) the last day on which any Convertible Notes remain outstanding and (ii) the third Scheduled Trading Day immediately preceding September 15, 2012 (the “ <b>Maturity Date</b> ”)
Scheduled Trading Day:	As defined in the Indenture.
VWAP Trading Day:	As defined in the Indenture.
Required Exercise on Conversion Dates:	On each Conversion Date, a number of Options equal to the number of Relevant Convertible Notes for such Conversion Date in denominations of USD1,000 principal amount shall be automatically exercised, subject to “Notice of Exercise” below.
Notice of Exercise:	Notwithstanding anything to the contrary in the Equity Definitions, Dealer shall have no obligation to make any payment or delivery in respect of any exercise of Options hereunder unless Counterparty notifies Dealer in writing prior to 5:00 P.M., New York City time, on the Scheduled Trading Day prior to the first Exchange Business Day of the “Observation Period”, as defined in the Indenture, relating to the Relevant Convertible Notes converted on the relevant Conversion Date on which such Exercise Date occurs (the “ <b>Notice Deadline</b> ”) of (i) the number of Options being exercised on such Exercise Date, (ii) the scheduled settlement date under the Indenture for the Relevant Convertible Notes converted on the relevant Conversion Date and (iii) the first Scheduled Trading Day of the relevant Observation Period. Notwithstanding the foregoing, (x) in respect of Options with an Exercise Date occurring during the period from and including the 35 <sup>th</sup> Scheduled Trading Day prior to the Maturity Date to and including the Expiration Date (the “ <b>Final Conversion Period</b> ”), the Notice Deadline shall be 12:00 noon, New York City time on the Scheduled Trading Day immediately following the Expiration Date and the content of such notice shall be as set forth in clauses (i) and (ii) above as they relate to all Exercise Dates occurring during the Final Conversion Period and (y) such notice (and the related automatic exercise of Options) shall be effective if given after the Notice Deadline but prior to 5:00 P.M., New York City time, on the fifth Scheduled Trading Day of such Observation Period, in which event the Calculation Agent shall have the right to adjust the Delivery Obligation (as defined below) as appropriate to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer or any of its affiliates in connection with hedging activities (including the unwinding of any hedge position) as a result of Dealer not

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	having received such notice prior to the Notice Deadline. For the avoidance of doubt, if Counterparty fails to give such notice when due in respect of any exercise of Options hereunder, Dealer’s obligations to make any payment or delivery in respect of such exercise shall be permanently extinguished, and late notice shall not cure such failure.
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and Contact Details for purpose of  
Giving Notice:

To: Deutsche Bank AG, London Branch  
c/o Deutsche Bank AG, New York  
60 Wall Street  
New York, New York 10005

Attn: Documentation Department

Telephone: + 44 20 7545 8193

Facsimile: + 44 11 3336 2009

Settlement Terms:

Settlement Date:

For any Exercise Date, the settlement date for the Shares to be delivered in respect of the Relevant Convertible Notes for the relevant Conversion Date under the terms of the Indenture.

Delivery Obligation:

In lieu of the obligations set forth in Sections 8.1 and 9.1 of the Equity Definitions, and subject to “Notice of Exercise” above, in respect of any Exercise Date, Dealer will deliver to Counterparty, on the related Settlement Date, a number of Shares equal to the product of the Applicable Percentage and the aggregate number of Shares, if any (and cash in lieu of fractional Shares, if any) that Counterparty is obligated to deliver to the holder(s) of the Relevant Convertible Notes for the corresponding Conversion Date pursuant to Section 13.02 of the Indenture (such Shares, the “**Convertible Obligation**”); *provided* that such obligation shall be determined excluding any Shares (and cash in lieu of fractional Shares) that Counterparty is obligated to deliver to holder(s) of the Relevant Convertible Notes as a direct or indirect result of any adjustments to the Conversion Rate pursuant to Sections 13.01(e) or 13.04(f) of the Indenture and any interest payment that the Counterparty is obligated to deliver to holder(s) of the Relevant Convertible Note. For the avoidance of doubt, in respect of any Exercise Date, if the “Daily Conversion Value”, as defined in the Indenture, for each VWAP Trading Day during the relevant Observation Period is less than or equal to USD33.33 in the case of the first 20 VWAP Trading Days and USD33.34 in the case of the last 10 VWAP Trading Days, as the case may be, for each VWAP Trading Day in the Observation Period, Dealer will have no delivery obligation hereunder in respect of such Exercise Date.

Notice of Delivery Obligation:

No later than the Exchange Business Day immediately following the last day of the Observation Period, Counterparty shall give Dealer notice of the final number of Shares and/or the amount of cash comprising the Convertible Obligation; *provided* that, with respect to any Exercise Date occurring during the Final Conversion Period, Counterparty may provide Dealer with a single notice of the aggregate number of Shares and/or the amount of cash comprising the Convertible Obligations for all such Exercise Dates (it being understood, for the avoidance of doubt, that the requirement of Counterparty to deliver such notice shall not limit Counterparty’s obligations with respect to Notice of Exercise, as set forth above, in any way).

Other Applicable Provisions:

To the extent Dealer is obligated to deliver Shares hereunder, the provisions of Sections 9.1(c), 9.8, 9.9, 9.10, 9.11 and 9.12 of the Equity Definitions will be applicable as if “Physical Settlement” applied to the Transaction; *provided* that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws that exist as a result of the fact that Counterparty is the issuer of the Shares.

Restricted Certificated Shares:

Notwithstanding anything to the contrary in the Equity Definitions, Dealer may, in whole or in part, deliver Shares in certificated form representing the Number of Shares to be Delivered to Counterparty in lieu of delivery through the Clearance System.

Adjustments:

Method of Adjustment:

Notwithstanding Section 11.2 of the Equity Definitions, upon the occurrence of any event or condition set forth in Sections 13.04(a), (b), (c), (d) and (e) of the Indenture, the Calculation Agent shall make the corresponding adjustment in respect of any one or more of the Number of Options, the Option Entitlement and any other variable relevant to the exercise, settlement or payment of the Transaction, to the extent an analogous adjustment is made under the Indenture. Promptly following the occurrence of any Adjustment Event, as defined in the Indenture, Counterparty shall notify the Calculation Agent of such Adjustment Event; and once the adjustments to be made to the terms of the Indenture and the Convertible Notes in respect of such Adjustment Event have been determined, Counterparty shall promptly notify the Calculation Agent in writing of the details of such adjustments. The Calculation Agent shall, promptly after receiving such notice, make any corresponding adjustments to the terms of the Transaction and notify Dealer and Counterparty thereof. In addition, at least 10 Scheduled Trading Days prior to the ex-dividend date for any cash dividend or distribution that would constitute the occurrence of an Adjustment Event set forth in Section 13.04(d)

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of the Indenture and not earlier than the public announcement by Counterparty of such dividend or distribution, Counterparty shall notify the Calculation Agent of such Adjustment Event and the ex-dividend date for such cash dividend or distribution.

Extraordinary Events:

Merger Events:

Notwithstanding Section 12.1(b) of the Equity Definitions, a “Merger Event” means the occurrence of any event or condition set forth in Section 13.10 of the Indenture.

Consequences of Merger Events:

Notwithstanding Section 12.2 of the Equity Definitions, upon the occurrence of a Merger Event, the Calculation Agent shall make the corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares, the Number of Options, the Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction, to the extent an analogous adjustment is made under the Indenture in respect of such Merger Event; *provided* that such adjustment shall be made without regard to any adjustment to the Conversion Rate for the issuance of additional shares as set forth in Section 13.04(f) of the Indenture.

Notice of Merger Consideration:

Upon the occurrence of a Merger Event that causes the Shares to be converted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), Counterparty shall reasonably promptly (but in any event prior to the Merger Date) notify the Calculation Agent of the weighted average of the types and amounts of consideration to be received by the holders of Shares entitled to receive cash, securities or other property or assets with respect to or in exchange for such Shares in any Merger Event who affirmatively make such an election.

Nationalization, Insolvency  
or Delisting:

Cancellation and Payment (Calculation Agent Determination); *provided* that in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange. For the avoidance of doubt, the occurrence of any event that is a Merger Event and would also constitute a Delisting shall first have the consequences specified for the relevant

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Merger Event and following that have the consequences specified for the relevant Delisting.

Additional Disruption Events:

(a)	Change in Law:	Applicable
(b)	Failure to Deliver:	Applicable
(c)	Insolvency Filing:	Applicable
(d)	Hedging Disruption:	Applicable
(e)	Increased Cost of Hedging:	Applicable

Hedging Party: For all applicable Additional Disruption Events, Dealer

Determining Party: For all applicable Additional Disruption Events, Dealer

Non-Reliance: Applicable

Agreements and Acknowledgments Regarding Hedging Activities: Applicable

Additional Acknowledgments: Applicable

3. Calculation Agent: Dealer. The Calculation Agent shall, upon request by either party, provide a written explanation of any calculation made by it including, where applicable, a description of the methodology and data applied.

4. Account Details:

Dealer Payment Instructions:

Bank of New York  
ABA 021-000-018  
Deutsche Bank AG, New York  
GLA 111-569  
A/C DBO

Counterparty Payment Instructions:

To be provided by Counterparty.

5. Offices:

The Office of Dealer for the Transaction is:

Winchesterhouse, 1 Great Winchester Street, London EC2N 2DB

The Office of Counterparty for the Transaction is:

622 Third Avenue, 37<sup>th</sup> Floor, New York, New York 10017

6. Notices: For purposes of this Confirmation:

(a) Address for notices or communications to Counterparty:

To:

Attn:

Telephone:

Facsimile:

Asbury Automotive Group  
622 Third Avenue, 37th Floor  
New York, NY 10017  
Chief Financial Officer  
212-885-2500  
212-297-2645

Attn: General Counsel  
Facsimile: 212-297-2653

(b) Address for notices or communications to Dealer:

To: Deutsche Bank AG, London Branch  
c/o Deutsche Bank AG, New York  
60 Wall Street  
New York, New York 10005

Attn: Documentation Department  
Telephone: + 44 20 7545 8193  
Facsimile: + 44 11 3336 2009

7. Representations, Warranties and Agreements:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date, (A) none of Counterparty and its officers and directors is aware of any material nonpublic information regarding Counterparty or the Shares and (B) all reports and other documents filed by Counterparty with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), when considered as a whole (with the more recent such reports and documents deemed to supercede inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) (A) On the Trade Date, the Shares or securities that are convertible into, or exchangeable or exercisable for Shares, are not, and shall not be, subject to a “restricted period,” as such term is defined in Regulation M under the Exchange Act (“**Regulation M**”) as a result of activity by Counterparty or its affiliates or as a result of activity known to Counterparty and (B) Counterparty shall not engage in any “distribution,” as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b)(10) and 102(b)(7) of Regulation M, until the second Exchange Business Day immediately following the Trade Date.

(iii) On the Trade Date, neither Counterparty nor any “affiliate” or “affiliated purchaser” (each as defined in Rule 10b-18 of the Exchange Act (“**Rule 10b-18**”)) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except through Goldman, Sachs & Co.

(iv) Counterparty acknowledges that neither Dealer nor any of its affiliates is making any representations or warranties with respect to the treatment of the Transaction under FASB Statements 128, 133 (as amended), 149 or 150, EITF Issue Nos. 00-19, 01-06 or 03-06 (or any successor issue statements) or under FASB’s Liabilities & Equity Project.

(v) Without limiting the generality of Section 3(a)(iii) of the Agreement, the Transaction will not violate Rule 13e-1 or Rule 13e-4 under the Exchange Act.

(vi) Prior to the Trade Date, Counterparty shall deliver to Dealer a resolution of Counterparty’s board of directors authorizing the Transaction and such other certificate or certificates as Dealer shall reasonably request.

(vii) Counterparty is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to raise or

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depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.

(viii) Counterparty is not, and after giving effect to the transactions contemplated hereby will not be, required to register as, an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.

(ix) On each of the Trade Date, and the Premium Payment Date and the Additional Premium Payment Date, if any, Counterparty is not “insolvent” (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”)) and Counterparty would be able to purchase the Shares hereunder in compliance with the laws of the jurisdiction of Counterparty’s incorporation.

(x) The representations and warranties of Counterparty set forth in Section 3 of the Agreement and Section 1 of the Purchase Agreement are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein.

(b) Each of Dealer and Counterparty agrees and represents that it is an “eligible contract participant” as defined in Section 1a(12) of the U.S. Commodity Exchange Act, as amended.

(c) Each of Dealer and Counterparty acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act of 1933, as amended (the “**Securities Act**”), by virtue of Section 4(2) thereof. Accordingly, Counterparty represents and warrants to Dealer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment and its

investments in and liabilities in respect of the Transaction, which it understands are not readily marketable, are not disproportionate to its net worth, and it is able to bear any loss in connection with the Transaction, including the loss of its entire investment in the Transaction, (ii) it is an “accredited investor” as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account, (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws, and (v) its financial condition is such that it has no need for liquidity with respect to its investment in the Transaction and no need to dispose of any portion thereof to satisfy any existing or contemplated undertaking or indebtedness and is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the Transaction.

(d) Each of Dealer and Counterparty agrees and acknowledges (A) that this Confirmation is (i) a “securities contract,” as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a “settlement payment,” as such term is defined in Section 741(8) of the Bankruptcy Code, and (ii) a “swap agreement,” as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a “transfer,” as such term is defined in Section 101(54) of the Bankruptcy Code, and (B) that Dealer is entitled to the protections afforded by, among other sections, Section 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code.

(e) Each party acknowledges and agrees to be bound by the Conduct Rules of the National Association of Securities Dealers, Inc. applicable to transactions in options, and further agrees not to violate the position and exercise limits set forth therein.

(f) Counterparty shall deliver to Dealer an opinion of counsel, dated as of the Trade Date and reasonably acceptable to Dealer in form and substance, with respect to the matters set forth in Section 3(a) of the Agreement.

#### 8. Other Provisions:

(a) *Right to Extend.* Dealer may postpone any Exercise Date or any other date of valuation or delivery by Dealer, with respect to some or all of the relevant Options (in which event the Calculation Agent shall make appropriate adjustments to the Delivery Obligation), if Dealer determines, in its reasonable discretion, that such extension is reasonably necessary or appropriate to preserve Dealer’s hedging or hedge

unwind activity hereunder in light of existing liquidity conditions in the cash market or the stock borrow market or to enable Dealer to effect purchases of Shares in connection with its hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer.

(b) *Additional Termination Events.* The occurrence of (i) an event of default with respect to Counterparty under the terms of the Convertible Notes as set forth in Section 6.01 of the Indenture, or (ii) an Amendment Event shall be an Additional Termination Event with respect to which the Transaction is the sole Affected Transaction and Counterparty is the sole Affected Party, and Dealer shall be the party entitled to designate an Early Termination Amount pursuant to Section 6(b) of the Agreement and to determine the Early Termination Amount pursuant to Section 6(e)(ii)(1) of the Agreement.

“**Amendment Event**” means that Counterparty amends, modifies, supplements or receives a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion price, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend, in each case without the prior consent of Dealer, such consent not to be unreasonably withheld.

(c) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events.* If, subject to Section 8(i) below, Dealer shall owe Counterparty any amount pursuant to Section 12.2 of the Equity Definitions and “Consequences of Merger Events” above, or Sections 12.3, 12.6, 12.7 or 12.9 of the Equity Definitions (except in the event of an Extraordinary Event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash) or pursuant to Section 6(d)(ii) of the Agreement (except in the event of an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, that resulted from an event or events within Counterparty’s control) (a “**Payment Obligation**”), Counterparty shall have the right, in its sole discretion, to require Dealer to satisfy any such Payment Obligation by the Share Termination Alternative (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, between the hours of 9:00 A.M. and 4:00 P.M., New York City time, on the Merger Date, Announcement Date or Early Termination Date, as applicable (“**Notice of Share Termination**”). Upon such Notice of Share Termination, the following provisions shall apply on the Scheduled Trading Day immediately following the Merger Date, Announcement Date or Early Termination Date, as applicable:

Share Termination Alternative:	Applicable and means that Dealer shall deliver to Counterparty the Share Termination Delivery Property on the date on which the Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) of the Agreement, as applicable (the “ <b>Share Termination Payment Date</b> ”), in satisfaction of the Payment Obligation.
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Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
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Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit on the date such Share Termination Delivery Units are to be delivered as Share Termination Delivery Property, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Dealer and Counterparty at the time of notification of the Payment Obligation.
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Share Termination Delivery Unit:	In the case of a Termination Event, Event of Default or Delisting, one Share or, in the case of an Insolvency, Nationalization or Merger Event, a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency, Nationalization or Merger Event. If such Insolvency, Nationalization or Merger Event involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.
Failure to Deliver:	Applicable
Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9, 9.10, 9.11 and 9.12 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction, except that all references to "Shares" shall be read as references to "Share Termination Delivery Units"; and <i>provided</i> that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws as a result of the fact that Counterparty is the issuer of any Share Termination Delivery Units (or any part thereof).

(d) *Disposition of Hedge Shares.* Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, the Shares (the "**Hedge Shares**") acquired by Dealer for the purpose of hedging its obligations pursuant to the Transaction cannot be sold in the U.S. public market by Dealer without registration under the Securities Act, Counterparty shall, at its election: (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act to cover the resale of such Hedge Shares and (A) enter into an agreement, in form and substance satisfactory to Dealer, substantially in the form of an underwriting agreement for a registered offering, (B) provide accountant's "comfort" letters in customary form for registered offerings of equity securities, (C) provide disclosure opinions of nationally recognized outside counsel to Counterparty reasonably acceptable to Dealer, (D) provide other customary opinions, certificates and closing documents customary in form for registered offerings of equity securities and (E) afford Dealer a reasonable opportunity to conduct a "due diligence" investigation with respect to Counterparty customary in scope for underwritten offerings of equity securities; *provided, however*, that if Dealer, in its reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this Section 8(d) shall apply at the election of Counterparty; (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities, in form and substance satisfactory to Dealer, including customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Hedge Shares from Dealer), opinions and certificates and such other documentation as is customary for private placements agreements, all reasonably acceptable to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its reasonable judgment, to compensate Dealer for any discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement); or (iii) purchase the Hedge Shares from Dealer at the VWAP Price on such Exchange Business Days, and in the amounts, requested by Dealer. "**VWAP Price**" means, on any Exchange Business Day, the per Share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page ABG.N <equity> AQR (or any successor thereto) in respect of the period from 9:30 A.M. to 4:00 P.M., New York City time, on such Exchange Business Day (or if such volume-weighted average price is unavailable or manifestly incorrect, the market value of one Share on such Exchange Business Day, as determined by the Calculation Agent using a volume-weighted method).

(e) *Repurchase Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a "**Repurchase Notice**") on such day if, following such repurchase, the Notice Percentage as determined on such day is (i) greater than

6.0% and (ii) greater by 0.5% than the Notice Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater than the Notice Percentage as of the date hereof). The "**Notice Percentage**" as of any day is the fraction, expressed as a percentage, the numerator of which is the Number of Shares and the denominator of which is the number of Shares outstanding on such day. In the event that Counterparty fails to provide Dealer with a Repurchase Notice on the day and in the manner specified in this Section 8(e) then Counterparty agrees to indemnify and hold harmless Dealer and its directors, officers, employees, agents and controlling persons (Dealer and each such person being an "**Indemnified Party**") from and against any and all losses, claims, damages and liabilities (or actions in respect thereof), joint or several, to which such Indemnified Party may become subject under applicable securities laws, including without limitation, Section 16 of the Exchange Act, relating to or arising out of such failure. If for any reason the foregoing indemnification is unavailable to any Indemnified Party or insufficient to hold harmless any Indemnified Party, then Counterparty shall contribute, to the maximum extent permitted by law, to the amount paid or payable by the Indemnified Party as a result of such loss, claim, damage or liability. In addition, Counterparty will reimburse any Indemnified Party for all expenses (including reasonable counsel fees and expenses) as they are incurred (after notice to Counterparty) in connection with the investigation of, preparation for or defense or settlement of any pending or threatened claim or any action, suit or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto and whether or not such claim, action, suit or proceeding is initiated or brought by or on behalf of Counterparty. This indemnity shall survive the completion of the Transaction contemplated by this Confirmation and any assignment and delegation of the Transaction made pursuant to this Confirmation or the Agreement shall inure to the benefit of any permitted assignee of Dealer.

(f) *Transfer and Assignment.* Neither party may transfer or assign its rights and obligations hereunder and under the Agreement, in whole or in part, without the consent of non-transferring party; *provided*, that Dealer may transfer or assign without any consent of Counterparty its rights and obligations hereunder, in whole or in part, to (x) any of its affiliates, so long as the obligations of such affiliate hereunder are guaranteed by Deutsche Bank

AG acting through its London Branch or (y) any third party with a rating (or whose guarantor has a rating) for its long term, unsecured and unsubordinated indebtedness of A or better by Standard & Poor's Ratings Services or its successor ("S&P"), or A2 or better by Moody's Investors Service ("Moody's") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided further* that at any time at which the Equity Percentage exceeds 9.0%, if Dealer, in its discretion, is unable to effect a transfer or assignment to a third party in accordance with the provisions set forth above after its commercially reasonable efforts on pricing terms reasonably acceptable to Dealer such that the Equity Percentage is reduced to 8.5% or less, Dealer may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the "**Terminated Portion**") of the Transaction, such that the Equity Percentage following such partial termination will be equal to or less than 8.5%. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment or delivery shall be made pursuant to Section 6 of the Agreement and Section 8(c) of this Confirmation as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction, (ii) Counterparty shall be the sole Affected Party with respect to such partial termination and (iii) such portion of the Transaction shall be the only Terminated Transaction. The "**Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares "beneficially owned" (within the meaning of Section 13 of the Exchange Act) on such day by Dealer, any of its affiliates subject to aggregation with Dealer for the purposes of the "beneficial ownership" test under Section 13 of the Exchange Act and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer with respect to "beneficial ownership" of any Shares, including, in each case, without limitation, any Shares so owned as a hedge of the Transaction or a related transaction and Shares the "beneficial ownership" of which Dealer or Hedging Party has the right to acquire pursuant to a transaction related to the Transaction, and (B) the denominator of which is the number of Shares outstanding on such day. Counterparty may transfer or assign its rights and obligations hereunder and under the Agreement, in whole or in part, to any party with the consent of Dealer, such consent not to be unreasonably withheld.

(g) *Staggered Settlement.* If the Staggered Settlement Equity Percentage as of any Exchange Business Day during any Observation Period is greater than 4.5%, Dealer may, by notice to Counterparty prior to the related Settlement Date (the "**Nominal Settlement Date**"), elect to deliver the Shares on two or more dates (each, a "**Staggered Settlement Date**") or at two or more times on the Nominal Settlement Date as

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follows:

(i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to such Nominal Settlement Date, but not prior to the beginning of the related Observation Period) or delivery times and how it will allocate the Shares it is required to deliver under "Delivery Obligation" (above) among the Staggered Settlement Dates or delivery times; and

(ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates and delivery times will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date.

The "**Staggered Settlement Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (i) the number of Shares "beneficially owned" (within the meaning of Section 13 of the Exchange Act) on such day by Dealer, any of its affiliates subject to aggregation with Dealer for the purposes of the "beneficial ownership" test under Section 13 of the Exchange Act and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer with respect to "beneficial ownership" of any Shares, excluding Shares so owned as a hedge of the Transaction, plus (ii) the Number of Shares and (B) the denominator of which is the number of Shares outstanding on such day.

(h) *Disclosure.* Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.

(i) *Netting and Set-off.*

(i) If on any date cash would otherwise be payable or Shares or other property would otherwise be deliverable hereunder or pursuant to the Agreement or pursuant to any other agreement between the parties by Counterparty to Dealer and cash would otherwise be payable or Shares or other property would otherwise be deliverable hereunder or pursuant to the Agreement or pursuant to any other agreement between the parties by Dealer to Counterparty and the type of property required to be paid or delivered by each such party on such date is the same, then, on such date, each such party's obligation to make such payment or delivery will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable or deliverable by one such party exceeds the aggregate amount that would otherwise have been payable or deliverable by the other such party, replaced by an obligation of the party by whom the larger aggregate amount would have been payable or deliverable to pay or deliver to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

(ii) In addition to and without limiting any rights of set-off that a party hereto may have as a matter of law, pursuant to contract or otherwise, upon the occurrence of an Early Termination Date, Dealer shall have the right to terminate, liquidate and otherwise close out the Transaction and to set off any obligation or right that Dealer or any affiliate of Dealer may have to or against Counterparty hereunder or under the Agreement against any right or obligation Dealer or any of its affiliates may have against or to Counterparty, including without limitation any right to receive a payment or delivery pursuant to any provision of the Agreement or hereunder. In the case of a set-off of any obligation to release, deliver or pay assets against any right to receive assets of the same type, such obligation and right shall be set off in kind. In the case of a set-off of any obligation to release, deliver or pay assets against any right to receive assets of any other type, the value of each of such obligation and such right shall be determined by the Calculation Agent and the result of such set-off shall be that the net obligor shall pay or deliver to the other party an amount of cash or assets, at the net obligor's option, with a value (determined, in the case of a delivery of assets, by the Calculation Agent) equal to that of the net obligation. In determining the value of any obligation to release or deliver Shares or any right to receive Shares, the value at any time of such obligation or right shall be determined by reference to the market value of the Shares at such time, as determined by the Calculation Agent. If an obligation or right is unascertained at the time of any such set-off, the Calculation Agent may in good faith estimate

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the amount or value of such obligation or right, in which case set-off will be effected in respect of that estimate, and the relevant party shall account to the other party at the time such obligation or right is ascertained.

(iii) Notwithstanding any provision of the Agreement (including without limitation Section 6(f) thereof) and this Confirmation (including without limitation this Section 8(i)) or any other agreement between the parties to the contrary, (A) Counterparty shall not net or set off its obligations under the Transaction, if any, against its rights against Dealer under any other transaction or instrument and (B) Dealer may net and set off any rights of Dealer against Counterparty arising under the Transaction only against obligations of Dealer to Counterparty arising under any transaction or instrument if such transaction or instrument does not convey rights to Dealer senior to the claims of common stockholders in the event of Counterparty's bankruptcy. Dealer will give notice to Counterparty of any netting or set off effected under this provision.

(j) *Equity Rights.* Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in the event of Counterparty's bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Counterparty's bankruptcy to any claim arising as a result of a breach by Counterparty of any of its obligations under this Confirmation or the Agreement.

(k) *Early Unwind.* In the event the sale by Counterparty of the Convertible Notes is not consummated with the initial purchasers pursuant to the Purchase Agreement for any reason by the close of business in New York on March 16, 2007 (or such later date as agreed upon by the parties, which in no event shall be later than March 23, 2007) (March 16, 2007 or such later date being the "**Early Unwind Date**"), the Transaction shall automatically terminate (the "**Early Unwind**"), on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty thereunder shall be cancelled and terminated and (ii) Counterparty shall pay to Dealer, other than in cases involving a breach of the Purchase Agreement by the initial purchasers, an amount in cash equal to the aggregate amount of costs and expenses relating to the unwinding of Dealer's hedging activities in respect of the Transaction (including market losses incurred in reselling any Shares purchased by Dealer or its affiliates in connection with such hedging activities, unless Counterparty agrees to purchase any such Shares at the cost at which Dealer purchased such Shares). Following such termination, cancellation and payment, each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of either party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Dealer and Counterparty represent and acknowledge to the other that upon an Early Unwind and following the payment referred to above, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

(l) *Governing Law.* **THE AGREEMENT AND THIS CONFIRMATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO ITS CHOICE OF LAW DOCTRINE).**

(o) *Method of Delivery.* Whenever delivery of funds or other assets is required hereunder by or to Counterparty, such delivery shall be effected through Deutsche Bank AG, New York Branch ("**DBNY**"). In addition, all notices, demands and communications of any kind relating to the Transaction between Deutsche and Counterparty shall be transmitted exclusively through DBNY.

## **9. Arbitration.**

(a) All parties to this Confirmation are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.

(b) Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.

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(c) The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.

(d) The arbitrators do not have to explain the reason(s) for their award.

(e) The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry, unless Counterparty is a member of the organization sponsoring the arbitration facility, in which case all arbitrators may be affiliated with the securities industry.

(f) The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.

(g) The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this Confirmation.

(h) Counterparty agrees that any and all controversies that may arise between Counterparty and Dealer, including, but not limited to, those arising out of or relating to the Agreement or the Transaction hereunder, shall be determined by arbitration conducted before The New York Stock Exchange, Inc. ("NYSE") or NASD Dispute Resolution ("NASD-DR"), or, if the NYSE and NASD-DR decline to hear the matter, before the American Arbitration Association, in accordance with their arbitration rules then in force. The award of the arbitrator shall be final, and judgment upon the award rendered may be entered in any court, state or federal, having jurisdiction.

(i) No person shall bring a putative or certified class action to arbitration, nor seek to enforce any pre-dispute arbitration agreement against any person who has initiated in court a putative class action or who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action until: (i) the class certification is denied; (ii) the class is decertified; or (iii) Counterparty is excluded from the class by the court.



(j) Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this Confirmation except to the extent stated herein.

Counterparty hereby agrees (a) to check this Confirmation carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by Dealer) correctly sets forth the terms of the agreement between Dealer and Counterparty with respect to the Transaction, by manually signing this Confirmation or this page hereof as evidence of agreement to such terms and providing the other information requested herein and immediately returning an executed copy to Jonathan Miller, Facsimile No. (732) 578-2650.

Yours faithfully,

**DEUTSCHE BANK AG, LONDON BRANCH**

/s/ Lee Frankenfield, Managing Director  
Authorized Signatory

/s/ Andrea Leung, Managing Director  
Authorized Signatory

**DEUTSCHE BANK AG, NEW YORK**  
acting solely as Agent in connection with this Transaction

/s/ Andrew Yaeger, Director  
Authorized Signatory

/s/ Lee Frankenfield, Managing Director  
Authorized Signatory

Agreed and Accepted By:  
  
**ASBURY AUTOMOTIVE GROUP, INC.**

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Chief Financial Officer

**To:** Asbury Automotive Group, Inc.  
622 Third Avenue  
37th Floor  
New York, NY 10017

**A/C:** 028613248

**From:** Goldman, Sachs & Co.

**Re:** Issuer Warrant Transaction

**Ref. No:** SDB1625367450

**Date:** March 12, 2007

Dear Sir(s):

The purpose of this communication (this “**Confirmation**”) is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the “**Transaction**”) between Goldman, Sachs & Co. (“**Dealer**”) and Asbury Automotive Group, Inc. (“**Issuer**”). This communication constitutes a “**Confirmation**” as referred to in the ISDA Master Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2000 ISDA Definitions (including the Annex thereto) (the “**2000 Definitions**”) and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”, and together with the 2000 Definitions, the “**Definitions**”), in each case as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”). In the event of any inconsistency between the 2000 Definitions and the Equity Definitions, the Equity Definitions will govern. For purposes of the Equity Definitions, each reference herein to a Warrant shall be deemed to be a reference to a Call Option or an Option, as context requires.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

This Confirmation evidences a complete and binding agreement between Dealer and Issuer as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the “**Agreement**”) in the form of the 1992 ISDA Master Agreement as if Dealer and Issuer had executed an agreement in such form on the date hereof (but without any Schedule except for (i) the election of Loss and Second Method in respect of Payments on Early Termination and US Dollars (“**USD**”) as the Termination Currency, (ii) the replacement of the word “third” in the last line of Section 5(a)(i) of the Agreement with the word “first” and (iii) the election that the “Cross Default” provisions of Section 5(a)(vi) of the Agreement shall apply to Issuer with a “Threshold Amount” of USD15 million).

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation except as expressly modified herein. In the event of any inconsistency between this Confirmation and either the Definitions or the Agreement, this Confirmation shall govern.

The Transaction hereunder shall be the sole Transaction under the Agreement. If there exists any ISDA Master Agreement between Dealer and Issuer or any confirmation or other agreement between Dealer and Issuer pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Issuer, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Issuer are parties, the Transaction shall not be considered Transactions under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The Transaction is a Warrant Transaction, which shall be considered a Share Option Transaction for purposes of the Equity Definitions. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date:	March 12, 2007
Effective Date:	March 16, 2007, subject to Section 8(l) below
Components:	The Transaction will be divided into individual Components, each with the terms set forth in this Confirmation, and, in particular, with the Number of Warrants and Expiration Date set forth in this Confirmation. The payments and deliveries to be made upon settlement of the Transaction will be determined separately for each Component as if each Component were a separate Transaction under the Agreement.
Warrant Style:	American

Warrant Type:	Call
Seller:	Issuer
Buyer:	Dealer
Shares:	The Common Stock of Issuer, par value USD0.01 per share (Ticker Symbol: “ABG”).
Number of Warrants:	For each Component, as provided in Annex A to this Confirmation.
Warrant Entitlement:	One Share per Warrant
Strike Price:	USD45.09
Premium:	USD3,104,000 (Premium per Warrant USD2.6379)
Premium Payment Date:	The Effective Date
Exchange:	New York Stock Exchange
Related Exchange:	All Exchanges
Procedures for Exercise:	
<i>In respect of any Component:</i>	
Expiration Time:	Valuation Time
Expiration Date:	As provided in <u>Annex A</u> to this Confirmation (or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day that is not already an Expiration Date for another Component); <i>provided</i>

that if that date is a Disrupted Day, the Expiration Date for such Component shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day and is not or is not deemed to be an Expiration Date in respect of any other Component of the Transaction; and *provided further* that if the Expiration Date has not occurred pursuant to the preceding proviso as of the Final Disruption Date, the Final Disruption Date shall be the Expiration Date (irrespective of whether such date is an Expiration Date occurring on the Final Disruption Date in respect of any other Component for the Transaction) and the Calculation Agent shall determine the VWAP Price of the Shares as of the Valuation Time on such day. Notwithstanding the foregoing and anything to the contrary in the Equity Definitions, if a Market Disruption Event occurs on any Expiration Date, the Calculation Agent may determine that such Expiration Date is a Disrupted Day only in part, in which case the Calculation Agent shall make adjustments to the Number of Warrants for the relevant Component for which such day shall be the Expiration Date and shall designate the Scheduled Trading Day determined in the manner described in the immediately preceding sentence as the Expiration Date for the remaining Warrants for such Component. **“Final Disruption Date”** means April 24, 2013. Section 6.6 of the Equity Definitions shall not apply to any Valuation Date occurring on an Expiration Date.

Market Disruption Event:	Section 6.3(a) of the Equity Definitions is hereby amended by deleting the words “during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be,” in clause (ii) thereof.
Multiple Exercise:	Applicable
Minimum Number of Warrants:	1
Maximum Number of Warrants:	For any Exercise Date, the Number of Warrants outstanding for such Component as of such Exercise Date.
Automatic Exercise:	Automatic Exercise shall apply as if “Physical Settlement” applied to the Transaction and “In-the-Money” means the VWAP Price is greater than the Strike Price.

Issuer's Telephone Number  
and Telex and/or Facsimile Number  
and Contact Details for purpose of  
Giving Notice:

Asbury Automotive Group  
622 Third Avenue, 37th Floor  
New York, NY 10017  
Attn: Chief Financial Officer  
Telephone: 212-885-2500

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Facsimile: 212-297-2645

With a copy to:

Attn: General Counsel  
Facsimile: 212-297-2653

Settlement Terms:

*In respect of any Component:*

Settlement Currency:

USD

Net Share Settlement:

On each Settlement Date, Issuer shall deliver to Dealer a number of Shares equal to the Number of Shares to be Delivered for such Settlement Date to the account specified by Dealer and cash in lieu of any fractional Share valued at the VWAP Price on the Valuation Date corresponding to such Settlement Date. If, in the reasonable opinion of Issuer or Dealer, based on advice of counsel, for any reason, the Shares deliverable upon Net Share Settlement would not be immediately freely transferable by Dealer under Rule 144(k) under the Securities Act of 1933, as amended (the "**Securities Act**"), then Dealer may elect to either (x) permit delivery of such Shares notwithstanding any restriction on transfer or (y) have the provisions set forth in Section 8(b) below apply.

The Number of Shares to be Delivered shall be delivered by Issuer to Dealer no later than 12:00 noon (local time in New York City) on the relevant Settlement Date.

Number of Shares to be Delivered:

In respect of any Exercise Date, subject to the last sentence of Section 9.5 of the Equity Definitions, the product of (i) the number of Warrants exercised or deemed exercised on such Exercise Date, (ii) the Warrant Entitlement and (iii) (A) the excess, if any, of the VWAP Price on the Valuation Date occurring on such Exercise Date *over* the Strike Price *divided by* (B) such VWAP Price.

VWAP Price:

For any Valuation Date, as determined by the Calculation Agent, the NYSE Volume Weighted Average Price per Share for the regular trading session (including any extensions thereof) of the Exchange on such Valuation Date (without regard to pre-open or after hours trading outside of such regular trading session for such Valuation Date), as published by Bloomberg at 4:15 p.m. New York time (or 15 minutes following the end of any extension of the regular trading session) on such Valuation Date, on Bloomberg page "ABG.N <Equity> AQR" (or any successor thereto) (or if such published volume-weighted average price is unavailable or is manifestly incorrect, the market value of one share on such

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Valuation Date, as determined by the Calculation Agent using a volume-weighted method).

Other Applicable Provisions:	The provisions of Sections 9.1(c), 9.8, 9.9, 9.10, 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws that exist as a result of the fact that Seller is the Issuer of the Shares) and 9.12 of the Equity Definitions will be applicable, as if “Physical Settlement” applied to the Transaction.
Adjustments:	
<i>In respect of any Component:</i>	
Method of Adjustment:	Calculation Agent Adjustment; <i>provided</i> that an Extraordinary Dividend shall not be a Potential Adjustment Event.
Extraordinary Dividend:	Any cash dividend or distribution on the Shares with an ex-dividend date occurring on or after the Trade Date and on or prior to the Expiration Date the amount of which exceeds the Ordinary Dividend Amount for such calendar quarter.
Ordinary Dividend Amount:	For any calendar quarter, USD0.20 for the first cash dividend or distribution on the Shares for which the ex-dividend date falls within such calendar quarter, and zero for any subsequent dividend or distribution on the Shares for which the ex-dividend falls within the same calendar quarter.
Adjustment in Respect of an Extraordinary Dividend:	In respect of an Extraordinary Dividend, the Calculation Agent will adjust the Strike Price, the Number of Warrants, the Warrant Entitlement and any other variable relevant to the exercise, settlement, payment or other terms of the Transaction to preserve the fair value of the Transaction to Buyer after taking into account such Extraordinary Dividend.
Extraordinary Events:	
Consequences of Merger Events:	
(a) Share-for-Share:	Modified Calculation Agent Adjustment
(b) Share-for-Other:	Cancellation and Payment (Calculation Agent Determination)
(c) Share-for-Combined:	Cancellation and Payment (Calculation Agent Determination)
Tender Offer:	Applicable
Consequences of Tender Offers:	
(a) Share-for-Share:	Modified Calculation Agent Adjustment
(b) Share-for-Other:	Cancellation and Payment (Calculation Agent Determination)
(c) Share-for-Combined:	Cancellation and Payment (Calculation Agent Determination)
Reference Markets:	For the avoidance of doubt, and without limiting the generality of the foregoing provisions, any adjustment effected by the Calculation Agent pursuant to Section 12.2(e) and/or Section 12.3(d) of the Equity Definitions may (but need not) be determined by reference to the adjustment(s) made in respect of Merger Events or Tender Offers, as the case may be, in the convertible bond market.
Nationalization, Insolvency	

or Delisting:	Cancellation and Payment (Calculation Agent Determination); <i>provided</i> that in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it shall also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the American Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange. For the avoidance of doubt, the occurrence of any event that is a Merger Event or Tender Offer and would also constitute a Delisting shall first have the consequences specified for the relevant Merger Event or Tender Offer and following that have the consequences specified for the relevant Delisting.
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Additional Disruption Events:

- |     |                                 |                 |
|-----|---------------------------------|-----------------|
| (a) | Change in Law:                  | Applicable      |
| (b) | Failure to Deliver:             | Applicable      |
| (c) | Insolvency Filing:              | Applicable      |
| (d) | Hedging Disruption:             | Applicable      |
| (e) | Increased Cost of Hedging:      | Applicable      |
| (f) | Loss of Stock Borrow:           | Applicable      |
|     | Maximum Stock Loan Rate:        | 1.00% per annum |
| (g) | Increased Cost of Stock Borrow: | Applicable      |
|     | Initial Stock Loan Rate:        | 0.25% per annum |

Hedging Party:	For all applicable Additional Disruption Events, Buyer
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Determining Party:	For all applicable Additional Disruption Events, Buyer
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Non-Reliance:	Applicable
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Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
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Additional Acknowledgments:	Applicable
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3.	<u>Calculation Agent:</u>	Dealer. The Calculation Agent shall, upon request by either party, provide a written explanation of any calculation made by it including, where applicable, a description of the methodology and data applied.
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4.	<u>Account Details:</u>	
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Dealer Payment Instructions:

Chase Manhattan Bank New York  
For A/C Goldman, Sachs & Co.  
A/C #930-1-011483  
ABA: 021-000021

Issuer Payment Instructions:	To be provided by Issuer.
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5.	<u>Offices:</u>	
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The Office of Dealer for the Transaction is:

One New York Plaza, New York, New York 10004

The Office of Issuer for the Transaction is:

622 Third Avenue, 37<sup>th</sup> Floor, New York, New York 10017

6. Notices: For purposes of this Confirmation:

(a) Address for notices or communications to Issuer:

To: Asbury Automotive Group  
622 Third Avenue, 37th Floor  
New York, NY 10017  
Attn: Chief Financial Officer  
Telephone: 212-885-2500  
Facsimile: 212-297-2645

With a copy to:

Attn: General Counsel  
Facsimile: 212-297-2653

(b) Address for notices or communications to Dealer:

To: Goldman, Sachs & Co.  
One New York Plaza  
New York, NY 10004  
Attn: Equity Operations: Options and Derivatives  
Telephone: (212) 902-1981  
Facsimile: (212) 428-1980/1983

With a copy to:

Attn: Tracey McCabe  
Equity Capital Markets  
Telephone: (212) 357-0428  
Facsimile: (212) 902-3000

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7. Representations, Warranties and Agreements:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Issuer represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date, (A) none of Issuer and its officers and directors is aware of any material nonpublic information regarding Issuer or the Shares and (B) all reports and other documents filed by Issuer with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), when considered as a whole (with the more recent such reports and documents deemed to supercede inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) Issuer acknowledges that neither Dealer nor any of its affiliates is making any representations or warranties with respect to the treatment of the Transaction under FASB Statements 128, 133 (as amended), 149 or 150, EITF Issue Nos. 00-19, 01-06 or 03-06 (or any successor issue statements) or under FASB’s Liabilities & Equity Project.

(iii) Prior to the Trade Date, Issuer shall deliver to Dealer a resolution of Issuer’s board of directors authorizing the Transaction and such other certificate or certificates as Dealer shall reasonably request.

(iv) Issuer is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.

(v) Issuer is not, and after giving effect to the transactions contemplated hereby will not be, required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.

(vi) On the Trade Date (A) the assets of Issuer at their fair valuation exceed the liabilities of Issuer, including contingent liabilities, (B) the capital of Issuer is adequate to conduct the business of Issuer and (C) Issuer has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature.

(vii) Issuer shall not take any action to decrease the number of Available Shares below the Capped Number (each as defined below).

(viii) The representations and warranties of Issuer set forth in Section 3 of the Agreement and Section 1 of the Purchase Agreement (the “**Purchase Agreement**”) dated as of the Trade Date between Issuer and Dealer, as representative of the Initial Purchasers party thereto, are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein.

(ix) Issuer understands no obligations of Dealer to it hereunder will be entitled to the benefit of deposit insurance and that such obligations will not be guaranteed by any affiliate of Dealer or any governmental agency.

(x) During the period starting on the first Expiration Date and ending on the last Expiration Date (the “**Settlement Period**”), the Shares or securities that are convertible into, or exchangeable or exercisable for Shares, are not, and shall not be, subject to a “restricted period,” as such term is defined in Regulation M under the Exchange Act (“**Regulation M**”) and (B) Issuer shall not engage in any “distribution,” as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b)(10) and 102(b)(7) of Regulation M, until the second Exchange Business Day immediately following the Settlement Period.

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(xi) During the Settlement Period, neither Issuer nor any “affiliate” or “affiliated purchaser” (each as defined in Rule 10b-18 of the Exchange Act (“**Rule 10b-18**”)) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except through Dealer.

(b) Each of Dealer and Issuer agrees and represents that it is an “eligible contract participant” as defined in Section 1a(12) of the U.S. Commodity Exchange Act, as amended.

(c) Each of Dealer and Issuer acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act of 1933, as amended (the “**Securities Act**”), by virtue of Section 4(2) thereof. Accordingly, Dealer represents and warrants to Issuer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment and its investments in and liabilities in respect of the Transaction, which it understands are not readily marketable, are not disproportionate to its net worth, and it is able to bear any loss in connection with the Transaction, including the loss of its entire investment in the Transaction, (ii) it is an “accredited investor” as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account, (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws, (v) its financial condition is such that it has no need for liquidity with respect to its investment in the Transaction and no need to dispose of any portion thereof to satisfy any existing or contemplated undertaking or indebtedness and is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the Transaction.

(d) Each of Dealer and Issuer agrees and acknowledges (A) that this Confirmation is (i) a “securities contract,” as such term is defined in Section 741(7) of Title 11 of the United States Code (the “**Bankruptcy Code**”), with respect to which each payment and delivery hereunder is a “settlement payment,” as such term is defined in Section 741(8) of the Bankruptcy Code, and (ii) a “swap agreement,” as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a “transfer,” as such term is defined in Section 101(54) of the Bankruptcy Code, and (B) that Dealer is entitled to the protections afforded by, among other sections, Section 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code.

(e) Issuer shall deliver to Dealer an opinion of counsel, dated as of the Trade Date and reasonably acceptable to Dealer in form and substance, with respect to the matters set forth in Section 3(a) of the Agreement.

(f) Each party acknowledges and agrees to be bound by the Conduct Rules of the National Association of Securities Dealers, Inc. applicable to transactions in options, and further agrees not to violate the position and exercise limits set forth therein.

#### 8. Other Provisions:

(a) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events.* If, subject to Section 8(j) below, Issuer shall owe Buyer any amount pursuant to Sections 12.2, 12.3, 12.6, 12.7 or 12.9 of the Equity Definitions (except in the event of an Extraordinary Event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash) or pursuant to Section 6(d)(ii) of the Agreement (except in the event of an Event of Default in which Issuer is the Defaulting Party or a Termination Event in which Issuer is the Affected Party, that resulted from an event or events within Issuer’s control) (a “**Payment Obligation**”), Issuer shall have the right, in its sole discretion, to satisfy any such Payment Obligation by the Share Termination Alternative (as defined below) by giving irrevocable telephonic notice to Buyer, confirmed in writing within one Scheduled Trading Day, between the hours of 9:00 A.M. and 4:00 P.M., New York City time, on the Merger Date, Tender Offer Date, Announcement Date or Early Termination Date, as applicable (“**Notice of Share Termination**”). Upon such Notice of Share Termination, the following provisions shall apply on the Scheduled Trading Day immediately following the Merger Date, the Tender Offer Date, Announcement

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Date or Early Termination Date, as applicable:

Share Termination Alternative: Applicable and means that Issuer shall deliver to Dealer the Share Termination Delivery Property on the date on which the Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) of the Agreement, as applicable (the “**Share Termination Payment Date**”), in satisfaction of the Payment Obligation.

Share Termination Delivery Property: A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.



Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit on the date such Share Termination Delivery Units are to be delivered as Share Termination Delivery Property, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Issuer at the time of notification of the Payment Obligation.
Share Termination Delivery Unit:	In the case of a Termination Event, Event of Default or Delisting, one Share or, in the case of an Insolvency, Nationalization, Merger Event or Tender Offer, a Share or a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency, Nationalization, Merger Event or Tender Offer. If such Insolvency, Nationalization, Merger Event or Tender Offer involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.
Failure to Deliver:	Applicable
Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9, 9.10, 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws as a result of the fact that Seller is the Issuer of the Shares) and 9.12 of the Equity Definitions will be applicable as if “Physical Settlement” applied to the Transaction, and all references to “Shares” shall be read as references to “Share Termination Delivery Units”. If, in the reasonable opinion of Issuer or Dealer, on advice of counsel, for any reason, any securities comprising the Share Termination Delivery Units deliverable pursuant to this Section 8(a) would not be immediately freely transferable by Dealer under Rule 144(k) under the Securities Act, then Dealer may elect to either (x) permit delivery of such securities notwithstanding any restriction on transfer or (y) have the provisions set forth in Section 8(b) below apply.

(b) *Registration/Private Placement Procedures.* (i) With respect to the Transaction, the following provisions shall apply to the extent provided for above opposite the caption “Net Share Settlement” in Section 2 or in paragraph (a) of this Section 8. If so applicable, then, at the election of Issuer by notice to Buyer within one Exchange Business Day after the relevant delivery obligation arises,

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but in any event at least one Exchange Business Day prior to the date on which such delivery obligation is due, either (A) all Shares or Share Termination Delivery Units, as the case may be, delivered by Issuer to Buyer shall be, at the time of such delivery, covered by an effective registration statement of Issuer for immediate resale by Buyer (such registration statement and the corresponding prospectus (the “**Prospectus**”) (including, without limitation, any sections describing the plan of distribution) in form and content commercially reasonably satisfactory to Buyer) or (B) Issuer shall deliver additional Shares or Share Termination Delivery Units, as the case may be, so that the value of such Shares or Share Termination Delivery Units, as determined by the Calculation Agent to reflect an appropriate liquidity discount, equals the value of the number of Shares or Share Termination Delivery Units that would otherwise be deliverable if such Shares or Share Termination Delivery Units were freely tradeable (without prospectus delivery) upon receipt by Buyer (such value, the “**Freely Tradeable Value**”); *provided* that Issuer may not make the election described in this clause (B) if, on the date of its election, it has taken, or caused to be taken, any action that would make unavailable either the exemption pursuant to Section 4(2) of the Securities Act for the sale by Issuer to Dealer (or any affiliate designated by Dealer) of the Shares or the exemption pursuant to Section 4(1) or Section 4(3) of the Securities Act for resales of the Shares by Dealer (or any such affiliate of Dealer); *provided further* that, if requested by Dealer, Issuer shall make the election described in this clause (B) with respect to Shares delivered on all Settlement Dates no later than one Exchange Business Day prior to the first Exercise Date, and the applicable procedures described below shall apply to all Shares delivered on the Settlement Dates on an aggregate basis. (For the avoidance of doubt, as used in this paragraph (b) only, the term “Issuer” shall mean the issuer of the relevant securities, as the context shall require.)

(ii) If Issuer makes the election described in clause (b)(i)(A) above:

(A) Buyer (or an affiliate of Buyer designated by Buyer) shall be afforded a reasonable opportunity to conduct a due diligence investigation with respect to Issuer that is customary in scope for underwritten offerings of equity securities and that yields results that are commercially reasonably satisfactory to Buyer or its affiliates, as the case may be, in its discretion; and

(B) Buyer (or an affiliate of Buyer designated by Buyer) and Issuer shall enter into an agreement (a “**Registration Agreement**”) on commercially reasonable terms in connection with the public resale of such Shares or Share Termination Delivery Units, as the case may be, by Buyer or such affiliate substantially similar to underwriting agreements customary for underwritten offerings of equity securities, in form and substance commercially reasonably satisfactory to Buyer or its affiliates and Issuer, which Registration Agreement shall include, without limitation, provisions substantially similar to those contained in such underwriting agreements relating to the indemnification of, and contribution in connection with the liability of, Buyer and its affiliates and Issuer, shall provide for the payment by Issuer of all expenses in connection with such resale, including all registration costs and all fees and expenses of counsel for Buyer, and shall provide for the delivery of accountants’ “comfort letters” to Buyer and its affiliates with respect to the financial statements and certain financial information contained in or incorporated by reference into the Prospectus.

(iii) If Issuer makes the election described in clause (b)(i)(B) above:

(A) Buyer (or an affiliate of Buyer designated by Buyer) and any potential institutional purchaser of any such Shares or Share Termination Delivery Units, as the case may be, from Buyer or such affiliate identified by Buyer shall be afforded a commercially reasonable opportunity to conduct a due diligence investigation in compliance with applicable law with respect to Issuer customary in scope for private placements of equity securities (including, without limitation, the right to have made available to them for inspection all financial and other records, pertinent corporate documents and other information reasonably requested by them), subject to execution by such recipients of customary confidentiality agreements reasonably acceptable to Issuer;

(B) Buyer (or an affiliate of Buyer designated by Buyer) and Issuer shall enter into an agreement (a “**Private Placement Agreement**”) on commercially reasonable terms in connection with the private placement of such Shares or Share Termination Delivery Units, as the

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case may be, by Issuer to Buyer or such affiliate and the private resale of such shares by Buyer or any such affiliate, substantially similar to private placement purchase agreements customary for private placements of equity securities, in form and substance commercially reasonably satisfactory to Buyer and Issuer, which Private Placement Agreement shall include, without limitation, provisions substantially similar to those contained in such private placement purchase agreements relating to the indemnification of, and contribution in connection with the liability of, Buyer and its affiliates and Issuer, shall provide for the payment by Issuer of all expenses in connection with such resale, including all fees and expenses of counsel for Buyer, shall contain representations, warranties and agreements of Issuer reasonably necessary or advisable to establish and maintain the availability of an exemption from the registration requirements of the Securities Act for such resales, and shall use commercially reasonable efforts to provide for the delivery of accountants’ “comfort letters” to Buyer and its affiliates with respect to the financial statements and certain financial information contained in or incorporated by reference into the offering memorandum prepared for the resale of such Shares; and

(C) Issuer agrees that any Shares or Share Termination Delivery Units so delivered to Dealer, (i) may be transferred by and among Dealer and its affiliates, and Issuer shall effect such transfer without any further action by Dealer and (ii) after the minimum “holding period” within the meaning of Rule 144(d) under the Securities Act has elapsed with respect to such Shares or any securities issued by Issuer comprising such Share Termination Delivery Units, Issuer shall promptly remove, or cause the transfer agent for such Shares or securities to remove, any legends referring to any such restrictions or requirements from such Shares or securities upon delivery by Dealer (or such affiliate of Dealer) to Issuer or such transfer agent of seller’s and broker’s representation letters customarily delivered by Dealer in connection with resales of restricted securities pursuant to Rule 144 under the Securities Act and reasonably acceptable to the transfer agent for such Shares, without any further requirement for the delivery of any certificate, consent, agreement, opinion of counsel, notice or any other document, any transfer tax stamps or payment of any other amount or any other action by Dealer (or such affiliate of Dealer).

(c) *Make-whole Shares.* If Issuer makes the election described in clause (b)(i)(B) of paragraph (b) of this Section 8, then Dealer or its affiliate may sell (which sale shall be made in a commercially reasonable manner) such Shares or Share Termination Delivery Units, as the case may be, during a period (the “**Resale Period**”) commencing on the Exchange Business Day following delivery of such Shares or Share Termination Delivery Units, as the case may be, and ending on the Exchange Business Day on which Dealer completes the sale of all such Shares or Share Termination Delivery Units, as the case may be, or a sufficient number of Shares or Share Termination Delivery Units, as the case may be, so that the realized net proceeds of such sales exceed the Freely Tradeable Value. If any of such delivered Shares or Share Termination Delivery Units remain after such realized net proceeds exceed the Freely Tradeable Value, Dealer shall return such remaining Shares or Share Termination Delivery Units to Issuer. If the Freely Tradeable Value exceeds the realized net proceeds from such resale, Issuer shall transfer to Dealer by the open of the regular trading session on the Exchange on the Exchange Trading Day immediately following the last day of the Resale Period the amount of such excess (the “**Additional Amount**”) in cash or in a number of additional Shares (“**Make-whole Shares**”) in an amount that, based on the Relevant Price on the last day of the Resale Period (as if such day was the “Valuation Date” for purposes of computing such Relevant Price), has a dollar value equal to the Additional Amount. The Resale Period shall continue to enable the sale of the Make-whole Shares in the manner contemplated by this Section 8(c). This provision shall be applied successively until the Additional Amount is equal to zero, subject to Section 8(e).

(d) *Beneficial Ownership.* Notwithstanding anything to the contrary in the Agreement or this Confirmation, in no event shall Buyer be entitled to receive, or shall be deemed to receive, any Shares if, upon such receipt of such Shares, the “beneficial ownership” (within the meaning of Section 13 of the Exchange Act and the rules promulgated thereunder) of Shares by Buyer, any of its affiliates subject to aggregation with Buyer for purposes of the “beneficial ownership” test under Section 13 of the Exchange Act and all persons who may form a “group” (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Buyer with respect to “beneficial ownership” of any Shares (collectively, “**Buyer Group**”) would be equal to or greater than 8.5% or more of the outstanding Shares. If any delivery owed to Buyer

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hereunder is not made, in whole or in part, as a result of this provision, Issuer’s obligation to make such delivery shall not be extinguished and Issuer shall make such delivery as promptly as practicable after, but in no event later than one Exchange Business Day after, Buyer gives notice to Issuer that such delivery would not result in Buyer Group directly or indirectly so beneficially owning in excess of 8.5% of the outstanding Shares.

(e) *Limitations on Settlement by Issuer.* Notwithstanding anything herein or in the Agreement to the contrary, in no event shall Issuer be required to deliver Shares in connection with the Transaction in excess of 2,353,376 Shares (as such number may be adjusted from time to time in accordance with the provisions hereof) (the “**Capped Number**”). Issuer represents and warrants to Dealer (which shall be deemed to be repeated on each day that the Transaction is outstanding) that the Capped Number is equal to or less than the number of authorized but unissued Shares of the Issuer that are not reserved for future issuance in connection with transactions in the Shares (other than the Transaction) on the date of the determination of the Capped Number (such Shares, the “**Available Shares**”). In the event Issuer shall not have delivered the full number of Shares otherwise deliverable as a result of this Section 8(e) (the resulting deficit, the “**Deficit Shares**”), Issuer shall be continually obligated to deliver, from time to time until the full number of Deficit Shares have been delivered pursuant to this paragraph, Shares when, and to the extent, that (i) Shares are repurchased, acquired or otherwise received by Issuer or any of its subsidiaries after the Trade Date (whether or not in exchange for cash, fair value or any other consideration), (ii) authorized and unissued Shares reserved for issuance in respect of other transactions prior to such date which prior to the relevant date become no longer so reserved and (iii) Issuer additionally authorizes and unissued Shares that are not reserved for other transactions. Issuer shall immediately notify Dealer of the occurrence of any of the foregoing events (including the number of Shares subject to clause (i), (ii) or (iii) and the corresponding number of Shares to be delivered) and promptly deliver such Shares thereafter.

(f) *Equity Rights.* Buyer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in the event of Issuer’s bankruptcy. For the avoidance of doubt, the parties agree that the preceding

sentence shall not apply at any time other than during Issuer's bankruptcy to any claim arising as a result of a breach by Issuer of any of its obligations under this Confirmation or the Agreement. For the avoidance of doubt, the parties acknowledge that this Confirmation is not secured by any collateral that would otherwise secure the obligations of Issuer herein under or pursuant to any other agreement.

(g) *Amendments to Equity Definitions and the Agreement.* The following amendments shall be made to the Equity Definitions and to the Agreement:

(i) The first sentence of Section 11.2(c) of the Equity Definitions, prior to clause (A) thereof, is hereby amended to read as follows: '(c) If "Calculation Agent Adjustment" is specified as the Method of Adjustment in the related Confirmation of a Share Option Transaction, then following the announcement or occurrence of any Potential Adjustment Event, the Calculation Agent will determine whether such Potential Adjustment Event has a material effect on the theoretical value of the relevant Shares or options on the Shares and, if so, will (i) make appropriate adjustment(s), if any, to any one or more of: and, the portion of such sentence immediately preceding clause (ii) thereof is hereby amended by deleting the words "diluting or concentrative" and the words "(provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)" and replacing such latter phrase with the words "(and, for the avoidance of doubt, adjustments may be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)"; and

(ii) Section 11.2(e)(vii) of the Equity Definitions is hereby amended by deleting the words "diluting or concentrative" and replacing them with "material".

(h) *Transfer and Assignment.* Buyer may transfer or assign its rights and obligations hereunder and under the Agreement, in whole or in part, at any time to any person or entity whatsoever without the consent of Issuer.

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(i) *Disclosure.* Effective from the date of commencement of discussions concerning the Transaction, Issuer and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Issuer relating to such tax treatment and tax structure.

(j) *Netting and Set-off.*

(i) If on any date cash would otherwise be payable or Shares or other property would otherwise be deliverable hereunder or pursuant to the Agreement or pursuant to any other agreement between the parties by Issuer to Buyer and cash would otherwise be payable or Shares or other property would otherwise be deliverable hereunder or pursuant to the Agreement or pursuant to any other agreement between the parties by Buyer to Issuer and the type of property required to be paid or delivered by each such party on such date is the same, then, on such date, each such party's obligation to make such payment or delivery will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable or deliverable by one such party exceeds the aggregate amount that would otherwise have been payable or deliverable by the other such party, replaced by an obligation of the party by whom the larger aggregate amount would have been payable or deliverable to pay or deliver to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

(ii) In addition to and without limiting any rights of set-off that a party hereto may have as a matter of law, pursuant to contract or otherwise, upon the occurrence of an Early Termination Date, Buyer shall have the right to terminate, liquidate and otherwise close out the Transaction and to set off any obligation or right that Buyer or any affiliate of Buyer may have to or against Issuer hereunder or under the Agreement against any right or obligation Buyer or any of its affiliates may have against or to Issuer, including without limitation any right to receive a payment or delivery pursuant to any provision of the Agreement or hereunder. In the case of a set-off of any obligation to release, deliver or pay assets against any right to receive assets of the same type, such obligation and right shall be set off in kind. In the case of a set-off of any obligation to release, deliver or pay assets against any right to receive assets of any other type, the value of each of such obligation and such right shall be determined by the Calculation Agent and the result of such set-off shall be that the net obligor shall pay or deliver to the other party an amount of cash or assets, at the net obligor's option, with a value (determined, in the case of a delivery of assets, by the Calculation Agent) equal to that of the net obligation. In determining the value of any obligation to release or deliver Shares or any right to receive Shares, the value at any time of such obligation or right shall be determined by reference to the market value of the Shares at such time, as determined by the Calculation Agent. If an obligation or right is unascertained at the time of any such set-off, the Calculation Agent may in good faith estimate the amount or value of such obligation or right, in which case set-off will be effected in respect of that estimate, and the relevant party shall account to the other party at the time such obligation or right is ascertained.

(iii) Notwithstanding any provision of the Agreement (including without limitation Section 6(f) thereof) and this Confirmation (including without limitation this Section 8(k)) or any other agreement between the parties to the contrary, (A) Issuer shall not net or set off its obligations under the Transaction against its rights against Buyer under any other transaction or instrument; and (B) Buyer may net and set off any rights of Buyer against Issuer arising under the Transaction only against obligations of Buyer to Issuer arising under any transaction or instrument if such transaction or instrument does not convey rights to Buyer senior to the claims of common stockholders in the event of Issuer's bankruptcy. Buyer will give notice to Issuer of any netting or set off effected under this provision.

(k) *Additional Termination Event.* The occurrence of any one of the following shall constitute an Additional Termination Event with respect to which the Transaction is the sole Affected Transaction and Issuer is the sole Affected Party, and Dealer shall be the party entitled to designate an Early Termination Amount pursuant to Section 6(b) of the Agreement and to determine the Early Termination Amount pursuant to Section 6(e)(ii)(1) of the Agreement; *provided* that with respect to any of the Additional Termination Events set forth below, Dealer may choose to treat part of the Transaction as

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the sole Affected Transaction, and, upon the termination of the Affected Transaction, a Transaction with terms identical to those set forth herein except with a Number of Warrants equal to the unaffected number of Warrants shall be treated for all purposes as the Transaction, which shall remain in full force and effect:

(i) Buyer reasonably determines that it is advisable to terminate a portion of the Transaction so that Buyer's related hedging activities will comply with applicable securities laws, rules or regulations; or

(ii) there shall occur the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of Issuer and its Restricted Subsidiaries (as defined in the Indenture), taken as a whole, to any "person" (as that term is used in Section 13(d)(3) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")).

(l) *Effectiveness.* If, on or prior to the Effective Date, Buyer reasonably determines that it is advisable to cancel the Transaction because of concerns that Buyer's related hedging activities could be viewed as not complying with applicable securities laws, rules or regulations, the Transaction shall be cancelled and shall not become effective, and neither party shall have any obligation to the other party in respect of the Transaction.

(m) *Extension of Settlement.* Dealer may divide any Component into additional Components and designate the Expiration Date and the Number of Warrants for each such Component if Dealer determines, in its reasonable discretion, that such further division is necessary or advisable to preserve Dealer's hedging activity hereunder in light of existing liquidity conditions in the cash market or stock loan market or to enable Dealer to effect purchases of Shares in connection with its hedging activity hereunder in a manner that would, if Dealer were Issuer or an affiliated purchaser of Issuer, be compliance with applicable legal and regulatory requirements.

(n) *Governing Law.* **THE AGREEMENT AND THIS CONFIRMATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO ITS CHOICE OF LAW DOCTRINE).**

(o) *Amendment.* If the Initial Purchasers party to the Purchase Agreement exercise their right to purchase additional convertible notes as set forth therein, this Confirmation shall be deemed to be amended to provide therefore (in each case at the same Premium per Warrant set forth herein and otherwise on terms acceptable to Issuer and Dealer) and, to the extent required, Issuer and Dealer shall amend this Confirmation accordingly (such amendment to this Confirmation to provide for the payment by Dealer to Issuer of the additional total premium related thereto).

#### **9. Arbitration.**

(a) **All parties to this Confirmation are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.**

(b) **Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.**

(c) **The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.**

(d) **The arbitrators do not have to explain the reason(s) for their award.**

(e) **The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry, unless Issuer is a member of the organization sponsoring the arbitration facility, in which case all arbitrators may be affiliated with the securities industry.**

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(f) **The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.**

(g) **The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this Confirmation.**

(h) **Issuer agrees that any and all controversies that may arise between Issuer and Dealer, including, but not limited to, those arising out of or relating to the Agreement or the Transaction hereunder, shall be determined by arbitration conducted before The New York Stock Exchange, Inc. ("NYSE") or NASD Dispute Resolution ("NASD-DR"), or, if the NYSE and NASD-DR decline to hear the matter, before the American Arbitration Association, in accordance with their arbitration rules then in force. The award of the arbitrator shall be final, and judgment upon the award rendered may be entered in any court, state or federal, having jurisdiction.**

(i) **No person shall bring a putative or certified class action to arbitration, nor seek to enforce any pre-dispute arbitration agreement against any person who has initiated in court a putative class action or who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action until: (i) the class certification is denied; (ii) the class is decertified; or (iii) Issuer is excluded from the class by the court.**

(j) **Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this Confirmation except to the extent stated herein.**

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Issuer hereby agrees (a) to check this Confirmation carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by Dealer) correctly sets forth the terms of the agreement between Dealer and Issuer with respect to the Transaction, by manually signing this Confirmation or this page hereof as evidence of agreement to such terms and providing the other information requested herein and immediately returning an executed copy to Equity Derivatives Documentation Department, Facsimile No. (212) 428-1980/83.

Yours faithfully,

**GOLDMAN, SACHS & CO.**

By: /s/ Debra Tageldein, Vice President  
Authorized Signatory

Agreed and Accepted By:

**ASBURY AUTOMOTIVE GROUP, INC.**

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Chief Financial Officer

**Annex A**

For each Component of the Transaction, the Number of Warrants and Expiration Date is set forth below.

<u>Component Number</u>	<u>Number of Warrants</u>	<u>Expiration Date</u>
1	14,708	December 14, 2012
2	14,708	December 17, 2012
3	14,708	December 18, 2012
4	14,708	December 19, 2012
5	14,708	December 20, 2012
6	14,708	December 21, 2012
7	14,708	December 24, 2012
8	14,708	December 26, 2012
9	14,708	December 27, 2012
10	14,708	December 28, 2012
11	14,708	December 31, 2012
12	14,708	January 2, 2013
13	14,708	January 3, 2013
14	14,708	January 4, 2013
15	14,708	January 7, 2013
16	14,708	January 8, 2013
17	14,708	January 9, 2013
18	14,708	January 10, 2013
19	14,708	January 11, 2013
20	14,708	January 14, 2013
21	14,708	January 15, 2013
22	14,708	January 16, 2013
23	14,708	January 17, 2013
24	14,708	January 18, 2013
25	14,708	January 22, 2013
26	14,708	January 23, 2013
27	14,708	January 24, 2013
28	14,708	January 25, 2013
29	14,708	January 28, 2013
30	14,708	January 29, 2013
31	14,708	January 30, 2013
32	14,708	January 31, 2013
33	14,709	February 1, 2013
34	14,709	February 4, 2013
35	14,709	February 5, 2013
36	14,709	February 6, 2013
37	14,709	February 7, 2013
38	14,709	February 8, 2013
39	14,709	February 11, 2013

40	14,709	February 12, 2013
41	14,709	February 13, 2013
42	14,709	February 14, 2013
43	14,709	February 15, 2013
44	14,709	February 19, 2013
45	14,709	February 20, 2013
46	14,709	February 21, 2013
47	14,709	February 22, 2013
48	14,709	February 25, 2013
49	14,709	February 26, 2013
50	14,709	February 27, 2013
51	14,709	February 28, 2013

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52	14,709	March 1, 2013
53	14,709	March 4, 2013
54	14,709	March 5, 2013
55	14,709	March 6, 2013
56	14,709	March 7, 2013
57	14,709	March 8, 2013
58	14,709	March 11, 2013
59	14,709	March 12, 2013
60	14,709	March 13, 2013
61	14,709	March 14, 2013
62	14,709	March 15, 2013
63	14,709	March 18, 2013
64	14,709	March 19, 2013
65	14,709	March 20, 2013
66	14,709	March 21, 2013
67	14,709	March 22, 2013
68	14,709	March 25, 2013
69	14,709	March 26, 2013
70	14,709	March 27, 2013
71	14,709	March 28, 2013
72	14,709	April 1, 2013
73	14,709	April 2, 2013
74	14,709	April 3, 2013
75	14,709	April 4, 2013
76	14,709	April 5, 2013
77	14,709	April 8, 2013
78	14,709	April 9, 2013
79	14,709	April 10, 2013
80	14,709	April 11, 2013

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Deutsche Bank AG, London  
Branch  
Winchesterhouse  
1 Great Winchester St,  
London EC2N 2DB  
Telephone: 44 20 7545 8000

c/o Deutsche Bank AG, New York  
60 Wall Street  
New York, NY 10005  
Telephone: 212-250-2500

Internal Reference: 165924

**DATE:** March 12, 2007

**TO:** Asbury Automotive Group  
622 Third Avenue, 37th Floor  
New York, NY 10017

**ATTENTION:** Chief Financial Officer

**TELEPHONE:** 212-885-2500

**FACSIMILE:** 212-297-2645

**FROM:** Deutsche Bank AG London

**TELEPHONE:** + 44 20 7545 8193

**FACSIMILE:** + 44 11 3336 2009

**SUBJECT:** Issuer Warrant

**REFERENCE NUMBER(S):** 165924

The purpose of this communication (this “**Confirmation**”) is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the “**Transaction**”) between Deutsche Bank AG acting through its London Branch (“**Dealer**”) and Asbury Automotive Group, Inc. (“**Issuer**”). This communication constitutes a “**Confirmation**” as referred to in the ISDA Master Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2000 ISDA Definitions (including the Annex thereto) (the “**2000 Definitions**”) and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), and together with the 2000

Chairman of the Supervisory Board: Clemens Börsig  
Board of Managing Directors: Hermann-Josef Lamberti, Josef Ackermann,  
Tessen von Heydebreck, Anthony DiIorio, Hugo Banziger

Deutsche Bank AG is regulated by the FSA for the conduct of designated investment business in the UK, is a member of the London Stock Exchange and is a limited liability company incorporated in the Federal Republic of Germany HRB No. 30 000 District Court of Frankfurt am Main; Branch Registration No. in England and Wales BR000005, Registered address: Winchester House, 1 Great Winchester Street, London EC2N 2DB.

Definitions, the “**Definitions**”), in each case as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”). In the event of any inconsistency between the 2000 Definitions and the Equity Definitions, the Equity Definitions will govern. For purposes of the Equity Definitions, each reference herein to a Warrant shall be deemed to be a reference to a Call Option or an Option, as context requires.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

This Confirmation evidences a complete and binding agreement between Dealer and Issuer as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the “**Agreement**”) in the form of the 1992 ISDA Master Agreement as if Dealer and Issuer had executed an agreement in such form on the date hereof (but without any Schedule except for (i) the election of Loss and Second Method in respect of Payments on Early Termination and US Dollars (“**USD**”) as the Termination Currency, (ii) the replacement of the word “third” in the last line of Section 5(a)(i) of the Agreement with the word “first” and (iii) the election that the “Cross Default” provisions of Section 5(a)(vi) of the Agreement shall apply to Issuer with a “Threshold Amount” of USD15 million).

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation except as expressly modified herein. In the event of any inconsistency between this Confirmation and either the Definitions or the Agreement, this Confirmation shall govern.

The Transaction hereunder shall be the sole Transaction under the Agreement. If there exists any ISDA Master Agreement between Dealer and Issuer or any confirmation or other agreement between Dealer and Issuer pursuant to which an ISDA Master Agreement is deemed to exist between Dealer

and Issuer, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Issuer are parties, the Transaction shall not be considered Transactions under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

**DEUTSCHE BANK AG IS NOT REGISTERED AS A BROKER DEALER UNDER THE U.S. SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. DEUTSCHE BANK AG, NEW YORK BRANCH HAS ACTED SOLELY AS AGENT IN CONNECTION WITH THE TRANSACTION AND HAS NO OBLIGATION, BY WAY OF ISSUANCE, ENDORSEMENT, GUARANTEE OR OTHERWISE WITH RESPECT TO THE PERFORMANCE OF EITHER PARTY UNDER THE TRANSACTION. DEUTSCHE BANK AG, LONDON BRANCH IS NOT A MEMBER OF THE SECURITIES INVESTOR PROTECTION CORPORATION (SIPC).**

2. The Transaction is a Warrant Transaction, which shall be considered a Share Option Transaction for purposes of the Equity Definitions. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date:	March 12, 2007
Effective Date:	March 16, 2007, subject to Section 8(l) below
Components:	The Transaction will be divided into individual Components, each with the terms set forth in this Confirmation, and, in particular, with the Number of Warrants and Expiration Date set forth in this Confirmation. The payments and deliveries to be made upon settlement of the Transaction will be determined separately for each



	Component as if each Component were a separate Transaction under the Agreement.
Warrant Style:	American
Warrant Type:	Call
Seller:	Issuer
Buyer:	Dealer
Shares:	The Common Stock of Issuer, par value USD0.01 per share (Ticker Symbol: “ABG”).
Number of Warrants:	For each Component, as provided in Annex A to this Confirmation.
Warrant Entitlement:	One Share per Warrant
Strike Price:	USD45.09
Premium:	USD4,656,000 (Premium per Warrant USD2.6379)
Premium Payment Date:	The Effective Date
Exchange:	New York Stock Exchange
Related Exchange:	All Exchanges

Procedures for Exercise:

*In respect of any Component:*

Expiration Time:	Valuation Time
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Expiration Date:

As provided in Annex A to this Confirmation (or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day that is not already an Expiration Date for another Component); *provided* that if that date is a Disrupted Day, the Expiration Date for such Component shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day and is not or is not deemed to be an Expiration Date in respect of any other Component of the Transaction; and *provided further* that if the Expiration Date has not occurred pursuant to the preceding proviso as of the Final Disruption Date, the Final Disruption Date shall be the Expiration Date (irrespective of whether such date is an Expiration Date occurring on the Final Disruption Date in respect of any other Component for the Transaction) and the Calculation Agent shall determine the VWAP Price of the Shares as of the Valuation Time on such day. Notwithstanding the foregoing and anything to the contrary in the Equity Definitions, if a Market Disruption Event occurs on any Expiration Date, the Calculation Agent may determine that such Expiration Date is a Disrupted Day only in part, in which case the Calculation Agent shall make adjustments to the Number of Warrants for the relevant Component for which such day shall be the Expiration Date and shall designate the Scheduled Trading Day determined in the manner described in the immediately preceding sentence as the Expiration

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Date for the remaining Warrants for such Component. “**Final Disruption Date**” means April 24, 2013. Section 6.6 of the Equity Definitions shall not apply to any Valuation Date occurring on an Expiration Date.

Market Disruption Event:

Section 6.3(a) of the Equity Definitions is hereby amended by deleting the words “during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be,” in clause (ii) thereof.

Multiple Exercise:

Applicable

Minimum Number of Warrants:

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Maximum Number of Warrants:

For any Exercise Date, the Number of Warrants outstanding for such Component as of such Exercise Date.

Automatic Exercise:

Automatic Exercise shall apply as if “Physical Settlement” applied to the Transaction and “In-the-Money” means the VWAP Price is greater than the Strike Price.

Issuer’s Telephone Number  
and Telex and/or Facsimile Number  
and Contact Details for purpose of  
Giving Notice:

Asbury Automotive Group  
622 Third Avenue, 37th Floor  
New York, NY 10017  
Attn: Chief Financial Officer  
Telephone: 212-885-2500  
Facsimile: 212-297-2645

With a copy to:

Attn: General Counsel  
Facsimile: 212-297-2653

Settlement Terms:

*In respect of any Component:*

Settlement Currency:

USD

Net Share Settlement:

On each Settlement Date, Issuer shall deliver to Dealer a number of Shares equal to the Number of Shares to be Delivered for such Settlement Date to the account specified by Dealer and cash in lieu of any fractional Share valued at the VWAP Price on the Valuation Date corresponding to such Settlement Date. If, in the reasonable opinion of Issuer or Dealer, based on advice of counsel, for any reason, the Shares deliverable upon Net Share Settlement would not be immediately freely transferable by Dealer under Rule 144(k) under the Securities Act of 1933, as amended (the “**Securities Act**”), then Dealer may elect to either (x) permit delivery of such Shares

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notwithstanding any restriction on transfer or (y) have the provisions set forth in Section 8(b) below apply.

The Number of Shares to be Delivered shall be delivered by Issuer to Dealer no later than 12:00 noon (local time in New York City) on the relevant Settlement Date.

Number of Shares to be Delivered:

In respect of any Exercise Date, subject to the last sentence of Section 9.5 of the Equity Definitions, the product of (i) the number of Warrants exercised or deemed exercised on such Exercise Date, (ii) the Warrant Entitlement and (iii) (A) the excess, if any, of the VWAP Price on the Valuation Date occurring on such Exercise Date over the Strike Price *divided by* (B) such VWAP Price.

VWAP Price:

For any Valuation Date, as determined by the Calculation Agent, the NYSE Volume Weighted Average Price per Share for the regular trading session (including any extensions thereof) of the Exchange on such Valuation Date (without regard to pre-open or after hours trading outside of such regular trading session for such Valuation Date), as published by Bloomberg at 4:15 p.m. New York time (or 15 minutes following the end of any extension of the regular trading session) on such Valuation Date, on Bloomberg page “ABG.N <Equity> AQR” (or any successor thereto) (or if such published volume-weighted average price is unavailable or is manifestly incorrect, the market value of one share on such Valuation Date, as determined by the Calculation Agent using a volume-weighted method).

Other Applicable Provisions:

The provisions of Sections 9.1(c), 9.8, 9.9, 9.10, 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws that exist as a result of the fact that Seller is the Issuer of the Shares) and 9.12 of the Equity Definitions will be applicable, as if “Physical Settlement” applied to the Transaction.

Adjustments:

*In respect of any Component:*

Method of Adjustment:

Calculation Agent Adjustment; *provided* that an Extraordinary Dividend shall not be a Potential Adjustment Event.

Extraordinary Dividend:

Any cash dividend or distribution on the Shares with an ex-dividend date occurring on or after the Trade Date and on or prior to the Expiration Date the amount of which exceeds the Ordinary Dividend Amount for such calendar quarter.

Ordinary Dividend Amount:

For any calendar quarter, USD0.20 for the first cash dividend or distribution on the Shares for which the ex-dividend date falls within such calendar quarter, and zero for any subsequent dividend or distribution on the Shares for which the ex-dividend falls within the same calendar quarter.

Adjustment in Respect of an Extraordinary Dividend:

In respect of an Extraordinary Dividend, the Calculation Agent will adjust the Strike Price, the Number of Warrants, the Warrant Entitlement and any other variable relevant to the exercise, settlement, payment or other terms of the Transaction to preserve the fair value of the Transaction to Buyer after taking into account such Extraordinary Dividend.

Extraordinary Events:

Consequences of Merger Events:

(a) Share-for-Share:

Modified Calculation Agent Adjustment

(b) Share-for-Other:

Cancellation and Payment (Calculation Agent Determination)

(c) Share-for-Combined:

Cancellation and Payment (Calculation Agent Determination)

Tender Offer:

Applicable

Consequences of Tender Offers:

(a) Share-for-Share:

Modified Calculation Agent Adjustment

(b)	Share-for-Other:	Cancellation and Payment (Calculation Agent Determination)
(c)	Share-for-Combined:	Cancellation and Payment (Calculation Agent Determination)
Reference Markets:		For the avoidance of doubt, and without limiting the generality of the foregoing provisions, any adjustment effected by the Calculation Agent pursuant to Section 12.2(e) and/or Section 12.3(d) of the Equity Definitions may (but need not) be determined by reference to the adjustment(s) made in respect of Merger Events or Tender Offers, as the case may be, in the convertible bond market.
Nationalization, Insolvency or Delisting:		Cancellation and Payment (Calculation Agent Determination); <i>provided</i> that in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it shall also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the American Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the

Exchange. For the avoidance of doubt, the occurrence of any event that is a Merger Event or Tender Offer and would also constitute a Delisting shall first have the consequences specified for the relevant Merger Event or Tender Offer and following that have the consequences specified for the relevant Delisting.

Additional Disruption Events:

(a)	Change in Law:	Applicable
(b)	Failure to Deliver:	Applicable
(c)	Insolvency Filing:	Applicable
(d)	Hedging Disruption:	Applicable
(e)	Increased Cost of Hedging:	Applicable
(f)	Loss of Stock Borrow:	Applicable
	Maximum Stock Loan Rate:	1.00% per annum
(g)	Increased Cost of Stock Borrow:	Applicable
	Initial Stock Loan Rate:	0.25% per annum

Hedging Party: For all applicable Additional Disruption Events, Buyer

Determining Party: For all applicable Additional Disruption Events, Buyer

Non-Reliance: Applicable

Agreements and Acknowledgments  
Regarding Hedging Activities: Applicable

Additional Acknowledgments: Applicable

3. Calculation Agent: Dealer. The Calculation Agent shall, upon request by either party, provide a written explanation of any calculation made by it including, where applicable, a description of the methodology and data applied.

4. Account Details:

Dealer Payment Instructions:

Bank of New York  
ABA 021-000-018  
Deutsche Bank AG, New York  
GLA 111-569  
A/C DBO

5. Offices:

The Office of Dealer for the Transaction is:

Winchesterhouse, 1 Great Winchester Street, London EC2N 2DB

The Office of Issuer for the Transaction is:

622 Third Avenue, 37<sup>th</sup> Floor, New York, New York 10017

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6. Notices: For purposes of this Confirmation:

## (a) Address for notices or communications to Issuer:

To: Asbury Automotive Group  
622 Third Avenue, 37th Floor  
New York, NY 10017  
Attn: Chief Financial Officer  
Telephone: 212-885-2500  
Facsimile: 212-297-2645

With a copy to:

Attn: General Counsel  
Facsimile: 212-297-2653

## (b) Address for notices or communications to Dealer:

To: Deutsche Bank AG, London Branch  
c/o Deutsche Bank AG, New York  
60 Wall Street  
New York, New York 10005

Attn: Documentation Department  
Telephone: + 44 20 7545 8193  
Facsimile: + 44 11 3336 2009

7. Representations, Warranties and Agreements:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Issuer represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date, (A) none of Issuer and its officers and directors is aware of any material nonpublic information regarding Issuer or the Shares and (B) all reports and other documents filed by Issuer with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), when considered as a whole (with the more recent such reports and documents deemed to supercede inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) Issuer acknowledges that neither Dealer nor any of its affiliates is making any representations or warranties with respect to the treatment of the Transaction under FASB Statements 128, 133 (as amended), 149 or 150, EITF Issue Nos. 00-19, 01-06 or 03-06 (or any successor issue statements) or under FASB’s Liabilities & Equity Project.

(iii) Prior to the Trade Date, Issuer shall deliver to Dealer a resolution of Issuer’s board of directors authorizing the Transaction and such other certificate or certificates as Dealer shall reasonably request.

(iv) Issuer is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.

(v) Issuer is not, and after giving effect to the transactions contemplated hereby will not be, required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.

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(vi) On the Trade Date (A) the assets of Issuer at their fair valuation exceed the liabilities of Issuer, including contingent liabilities, (B) the capital of Issuer is adequate to conduct the business of Issuer and (C) Issuer has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature.

(vii) Issuer shall not take any action to decrease the number of Available Shares below the Capped Number (each as defined below).

(viii) The representations and warranties of Issuer set forth in Section 3 of the Agreement and Section 1 of the Purchase Agreement (the “**Purchase Agreement**”) dated as of the Trade Date between Issuer and Dealer, as representative of the Initial Purchasers party thereto, are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein.

(ix) Issuer understands no obligations of Dealer to it hereunder will be entitled to the benefit of deposit insurance and that such obligations will not be guaranteed by any affiliate of Dealer or any governmental agency.

(x) During the period starting on the first Expiration Date and ending on the last Expiration Date (the “**Settlement Period**”), the Shares or securities that are convertible into, or exchangeable or exercisable for Shares, are not, and shall not be, subject to a “restricted period,” as such term is defined in Regulation M under the Exchange Act (“**Regulation M**”) and (B) Issuer shall not engage in any “distribution,” as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b)(10) and 102(b)(7) of Regulation M, until the second Exchange Business Day immediately following the Settlement Period.

(xi) During the Settlement Period, neither Issuer nor any “affiliate” or “affiliated purchaser” (each as defined in Rule 10b-18 of the Exchange Act (“**Rule 10b-18**”)) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except through Dealer.

(b) Each of Dealer and Issuer agrees and represents that it is an “eligible contract participant” as defined in Section 1a(12) of the U.S. Commodity Exchange Act, as amended.

(c) Each of Dealer and Issuer acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act of 1933, as amended (the “**Securities Act**”), by virtue of Section 4(2) thereof. Accordingly, Dealer represents and warrants to Issuer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment and its investments in and liabilities in respect of the Transaction, which it understands are not readily marketable, are not disproportionate to its net worth, and it is able to bear any loss in connection with the Transaction, including the loss of its entire investment in the Transaction, (ii) it is an “accredited investor” as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account, (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws, (v) its financial condition is such that it has no need for liquidity with respect to its investment in the Transaction and no need to dispose of any portion thereof to satisfy any existing or contemplated undertaking or indebtedness and is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the Transaction.

(d) Each of Dealer and Issuer agrees and acknowledges (A) that this Confirmation is (i) a “securities contract,” as such term is defined in Section 741(7) of Title 11 of the United States Code (the “**Bankruptcy Code**”), with respect to which each payment and delivery hereunder is a “settlement payment,” as such term is defined in Section 741(8) of the Bankruptcy Code, and (ii) a “swap agreement,” as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a “transfer,” as such term is defined in Section 101(54) of the Bankruptcy Code,

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and (B) that Dealer is entitled to the protections afforded by, among other sections, Section 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code.

(e) Issuer shall deliver to Dealer an opinion of counsel, dated as of the Trade Date and reasonably acceptable to Dealer in form and substance, with respect to the matters set forth in Section 3(a) of the Agreement.

(f) Each party acknowledges and agrees to be bound by the Conduct Rules of the National Association of Securities Dealers, Inc. applicable to transactions in options, and further agrees not to violate the position and exercise limits set forth therein.

#### 8. Other Provisions:

(a) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events.* If, subject to Section 8(j) below, Issuer shall owe Buyer any amount pursuant to Sections 12.2, 12.3, 12.6, 12.7 or 12.9 of the Equity Definitions (except in the event of an Extraordinary Event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash) or pursuant to Section 6(d)(ii) of the Agreement (except in the event of an Event of Default in which Issuer is the Defaulting Party or a Termination Event in which Issuer is the Affected Party, that resulted from an event or events within Issuer’s control) (a “**Payment Obligation**”), Issuer shall have the right, in its sole discretion, to satisfy any such Payment Obligation by the Share Termination Alternative (as defined below) by giving irrevocable telephonic notice to Buyer, confirmed in writing within one Scheduled Trading Day, between the hours of 9:00 A.M. and 4:00 P.M., New York City time, on the Merger Date, Tender Offer Date, Announcement Date or Early Termination Date, as applicable (“**Notice of Share Termination**”). Upon such Notice of Share Termination, the following provisions shall apply on the Scheduled Trading Day immediately following the Merger Date, the Tender Offer Date, Announcement Date or Early Termination Date, as applicable:

Share Termination Alternative:

Applicable and means that Issuer shall deliver to Dealer the Share Termination Delivery Property on the date on which the Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) of the Agreement, as applicable (the “**Share Termination Payment Date**”), in satisfaction of the Payment Obligation.

Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit on the date such Share Termination Delivery Units are to be delivered as Share Termination Delivery Property, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Issuer at the time of notification of the Payment Obligation.
Share Termination Delivery Unit:	In the case of a Termination Event, Event of Default or Delisting, one Share or, in the case of an Insolvency, Nationalization, Merger Event or Tender Offer, a Share or a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency, Nationalization, Merger Event or Tender Offer. If such Insolvency, Nationalization, Merger Event or Tender Offer involves a choice of consideration to be received by holders, such holder shall be deemed to

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	have elected to receive the maximum possible amount of cash.
Failure to Deliver:	Applicable
Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9, 9.10, 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws as a result of the fact that Seller is the Issuer of the Shares) and 9.12 of the Equity Definitions will be applicable as if “Physical Settlement” applied to the Transaction, and all references to “Shares” shall be read as references to “Share Termination Delivery Units”. If, in the reasonable opinion of Issuer or Dealer, on advice of counsel, for any reason, any securities comprising the Share Termination Delivery Units deliverable pursuant to this Section 8(a) would not be immediately freely transferable by Dealer under Rule 144(k) under the Securities Act, then Dealer may elect to either (x) permit delivery of such securities notwithstanding any restriction on transfer or (y) have the provisions set forth in Section 8(b) below apply.

(b) *Registration/Private Placement Procedures.* (i) With respect to the Transaction, the following provisions shall apply to the extent provided for above opposite the caption “Net Share Settlement” in Section 2 or in paragraph (a) of this Section 8. If so applicable, then, at the election of Issuer by notice to Buyer within one Exchange Business Day after the relevant delivery obligation arises, but in any event at least one Exchange Business Day prior to the date on which such delivery obligation is due, either (A) all Shares or Share Termination Delivery Units, as the case may be, delivered by Issuer to Buyer shall be, at the time of such delivery, covered by an effective registration statement of Issuer for immediate resale by Buyer (such registration statement and the corresponding prospectus (the “**Prospectus**”) (including, without limitation, any sections describing the plan of distribution) in form and content commercially reasonably satisfactory to Buyer) or (B) Issuer shall deliver additional Shares or Share Termination Delivery Units, as the case may be, so that the value of such Shares or Share Termination Delivery Units, as determined by the Calculation Agent to reflect an appropriate liquidity discount, equals the value of the number of Shares or Share Termination Delivery Units that would otherwise be deliverable if such Shares or Share Termination Delivery Units were freely tradeable (without prospectus delivery) upon receipt by Buyer (such value, the “**Freely Tradeable Value**”); *provided* that Issuer may not make the election described in this clause (B) if, on the date of its election, it has taken, or caused to be taken, any action that would make unavailable either the exemption pursuant to Section 4(2) of the Securities Act for the sale by Issuer to Dealer (or any affiliate designated by Dealer) of the Shares or the exemption pursuant to Section 4(1) or Section 4(3) of the Securities Act for resales of the Shares by Dealer (or any such affiliate of Dealer); *provided further* that, if requested by Dealer, Issuer shall make the election described in this clause (B) with respect to Shares delivered on all Settlement Dates no later than one Exchange Business Day prior to the first Exercise Date, and the applicable procedures described below shall apply to all Shares delivered on the Settlement Dates on an aggregate basis. (For the avoidance of doubt, as used in this paragraph (b) only, the term “Issuer” shall mean the issuer of the relevant securities, as the context shall require.)

(ii) If Issuer makes the election described in clause (b)(i)(A) above:

(A) Buyer (or an affiliate of Buyer designated by Buyer) shall be afforded a reasonable opportunity to conduct a due diligence investigation with respect to Issuer that is customary in scope for underwritten offerings of equity securities and that yields results that are commercially reasonably satisfactory to Buyer or its affiliates, as the case may be, in its discretion; and

(B) Buyer (or an affiliate of Buyer designated by Buyer) and Issuer shall enter into an agreement (a “**Registration Agreement**”) on commercially reasonable terms in connection with the public resale of such Shares or Share Termination Delivery Units, as the case may be, by Buyer or such affiliate substantially similar to underwriting agreements customary for

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underwritten offerings of equity securities, in form and substance commercially reasonably satisfactory to Buyer or its affiliates and Issuer, which Registration Agreement shall include, without limitation, provisions substantially similar to those contained in such underwriting agreements relating

to the indemnification of, and contribution in connection with the liability of, Buyer and its affiliates and Issuer, shall provide for the payment by Issuer of all expenses in connection with such resale, including all registration costs and all fees and expenses of counsel for Buyer, and shall provide for the delivery of accountants' "comfort letters" to Buyer and its affiliates with respect to the financial statements and certain financial information contained in or incorporated by reference into the Prospectus.

(iii) If Issuer makes the election described in clause (b)(i)(B) above:

(A) Buyer (or an affiliate of Buyer designated by Buyer) and any potential institutional purchaser of any such Shares or Share Termination Delivery Units, as the case may be, from Buyer or such affiliate identified by Buyer shall be afforded a commercially reasonable opportunity to conduct a due diligence investigation in compliance with applicable law with respect to Issuer customary in scope for private placements of equity securities (including, without limitation, the right to have made available to them for inspection all financial and other records, pertinent corporate documents and other information reasonably requested by them), subject to execution by such recipients of customary confidentiality agreements reasonably acceptable to Issuer;

(B) Buyer (or an affiliate of Buyer designated by Buyer) and Issuer shall enter into an agreement (a "**Private Placement Agreement**") on commercially reasonable terms in connection with the private placement of such Shares or Share Termination Delivery Units, as the case may be, by Issuer to Buyer or such affiliate and the private resale of such shares by Buyer or any such affiliate, substantially similar to private placement purchase agreements customary for private placements of equity securities, in form and substance commercially reasonably satisfactory to Buyer and Issuer, which Private Placement Agreement shall include, without limitation, provisions substantially similar to those contained in such private placement purchase agreements relating to the indemnification of, and contribution in connection with the liability of, Buyer and its affiliates and Issuer, shall provide for the payment by Issuer of all expenses in connection with such resale, including all fees and expenses of counsel for Buyer, shall contain representations, warranties and agreements of Issuer reasonably necessary or advisable to establish and maintain the availability of an exemption from the registration requirements of the Securities Act for such resales, and shall use commercially reasonable efforts to provide for the delivery of accountants' "comfort letters" to Buyer and its affiliates with respect to the financial statements and certain financial information contained in or incorporated by reference into the offering memorandum prepared for the resale of such Shares; and

(C) Issuer agrees that any Shares or Share Termination Delivery Units so delivered to Dealer, (i) may be transferred by and among Dealer and its affiliates, and Issuer shall effect such transfer without any further action by Dealer and (ii) after the minimum "holding period" within the meaning of Rule 144(d) under the Securities Act has elapsed with respect to such Shares or any securities issued by Issuer comprising such Share Termination Delivery Units, Issuer shall promptly remove, or cause the transfer agent for such Shares or securities to remove, any legends referring to any such restrictions or requirements from such Shares or securities upon delivery by Dealer (or such affiliate of Dealer) to Issuer or such transfer agent of seller's and broker's representation letters customarily delivered by Dealer in connection with resales of restricted securities pursuant to Rule 144 under the Securities Act and reasonably acceptable to the transfer agent for such Shares, without any further requirement for the delivery of any certificate, consent, agreement, opinion of counsel, notice or any other document, any transfer tax stamps or payment of any other amount or any other action by Dealer (or such affiliate of Dealer).

(c) *Make-whole Shares.* If Issuer makes the election described in clause (b)(i)(B) of paragraph (b) of this Section 8, then Dealer or its affiliate may sell (which sale shall be made in a commercially reasonable manner) such Shares or Share Termination Delivery Units, as the case may be, during a period (the "**Resale Period**") commencing on the Exchange Business Day following delivery of

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such Shares or Share Termination Delivery Units, as the case may be, and ending on the Exchange Business Day on which Dealer completes the sale of all such Shares or Share Termination Delivery Units, as the case may be, or a sufficient number of Shares or Share Termination Delivery Units, as the case may be, so that the realized net proceeds of such sales exceed the Freely Tradeable Value. If any of such delivered Shares or Share Termination Delivery Units remain after such realized net proceeds exceed the Freely Tradeable Value, Dealer shall return such remaining Shares or Share Termination Delivery Units to Issuer. If the Freely Tradeable Value exceeds the realized net proceeds from such resale, Issuer shall transfer to Dealer by the open of the regular trading session on the Exchange on the Exchange Trading Day immediately following the last day of the Resale Period the amount of such excess (the "**Additional Amount**") in cash or in a number of additional Shares ("**Make-whole Shares**") in an amount that, based on the Relevant Price on the last day of the Resale Period (as if such day was the "Valuation Date" for purposes of computing such Relevant Price), has a dollar value equal to the Additional Amount. The Resale Period shall continue to enable the sale of the Make-whole Shares in the manner contemplated by this Section 8(c). This provision shall be applied successively until the Additional Amount is equal to zero, subject to Section 8(e).

(d) *Beneficial Ownership.* Notwithstanding anything to the contrary in the Agreement or this Confirmation, in no event shall Buyer be entitled to receive, or shall be deemed to receive, any Shares if, upon such receipt of such Shares, the "beneficial ownership" (within the meaning of Section 13 of the Exchange Act and the rules promulgated thereunder) of Shares by Buyer, any of its affiliates subject to aggregation with Buyer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Buyer with respect to "beneficial ownership" of any Shares (collectively, "**Buyer Group**") would be equal to or greater than 8.5% or more of the outstanding Shares. If any delivery owed to Buyer hereunder is not made, in whole or in part, as a result of this provision, Issuer's obligation to make such delivery shall not be extinguished and Issuer shall make such delivery as promptly as practicable after, but in no event later than one Exchange Business Day after, Buyer gives notice to Issuer that such delivery would not result in Buyer Group directly or indirectly so beneficially owning in excess of 8.5% of the outstanding Shares.

(e) *Limitations on Settlement by Issuer.* Notwithstanding anything herein or in the Agreement to the contrary, in no event shall Issuer be required to deliver Shares in connection with the Transaction in excess of 3,530,064 Shares (as such number may be adjusted from time to time in accordance with the provisions hereof) (the "**Capped Number**"). Issuer represents and warrants to Dealer (which shall be deemed to be repeated on each day that the Transaction is outstanding) that the Capped Number is equal to or less than the number of authorized but unissued Shares of the Issuer that are not reserved for future issuance in connection with transactions in the Shares (other than the Transaction) on the date of the determination of the Capped Number (such Shares, the "**Available Shares**"). In the event Issuer shall not have delivered the full number of Shares otherwise deliverable as a result of this Section 8(e) (the resulting deficit, the "**Deficit Shares**"), Issuer shall be continually obligated to deliver, from time to time until the full number of Deficit Shares have been delivered pursuant to this paragraph, Shares when, and to the extent, that (i) Shares are repurchased, acquired or otherwise received by Issuer or any of its subsidiaries after the Trade Date (whether or not in exchange for cash, fair value or any other consideration), (ii) authorized and unissued Shares reserved for issuance in respect of other transactions prior to such date which prior to the relevant date become no longer so reserved and (iii) Issuer additionally

authorizes and unissued Shares that are not reserved for other transactions. Issuer shall immediately notify Dealer of the occurrence of any of the foregoing events (including the number of Shares subject to clause (i), (ii) or (iii) and the corresponding number of Shares to be delivered) and promptly deliver such Shares thereafter.

(f) *Equity Rights.* Buyer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in the event of Issuer's bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Issuer's bankruptcy to any claim arising as a result of a breach by Issuer of any of its obligations under this Confirmation or the Agreement. For the avoidance of doubt, the parties acknowledge that this Confirmation is not secured by any collateral that would otherwise secure the obligations of Issuer herein under or pursuant to any other agreement.

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(g) *Amendments to Equity Definitions and the Agreement.* The following amendments shall be made to the Equity Definitions and to the Agreement:

(i) The first sentence of Section 11.2(c) of the Equity Definitions, prior to clause (A) thereof, is hereby amended to read as follows: '(c) If "Calculation Agent Adjustment" is specified as the Method of Adjustment in the related Confirmation of a Share Option Transaction, then following the announcement or occurrence of any Potential Adjustment Event, the Calculation Agent will determine whether such Potential Adjustment Event has a material effect on the theoretical value of the relevant Shares or options on the Shares and, if so, will (i) make appropriate adjustment(s), if any, to any one or more of: and, the portion of such sentence immediately preceding clause (ii) thereof is hereby amended by deleting the words "diluting or concentrative" and the words "(provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)" and replacing such latter phrase with the words "(and, for the avoidance of doubt, adjustments may be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)"; and

(ii) Section 11.2(e)(vii) of the Equity Definitions is hereby amended by deleting the words "diluting or concentrative" and replacing them with "material".

(h) *Transfer and Assignment.* Buyer may transfer or assign its rights and obligations hereunder and under the Agreement, in whole or in part, at any time to any person or entity whatsoever without the consent of Issuer.

(i) *Disclosure.* Effective from the date of commencement of discussions concerning the Transaction, Issuer and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Issuer relating to such tax treatment and tax structure.

(j) *Netting and Set-off.*

(i) If on any date cash would otherwise be payable or Shares or other property would otherwise be deliverable hereunder or pursuant to the Agreement or pursuant to any other agreement between the parties by Issuer to Buyer and cash would otherwise be payable or Shares or other property would otherwise be deliverable hereunder or pursuant to the Agreement or pursuant to any other agreement between the parties by Buyer to Issuer and the type of property required to be paid or delivered by each such party on such date is the same, then, on such date, each such party's obligation to make such payment or delivery will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable or deliverable by one such party exceeds the aggregate amount that would otherwise have been payable or deliverable by the other such party, replaced by an obligation of the party by whom the larger aggregate amount would have been payable or deliverable to pay or deliver to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

(ii) In addition to and without limiting any rights of set-off that a party hereto may have as a matter of law, pursuant to contract or otherwise, upon the occurrence of an Early Termination Date, Buyer shall have the right to terminate, liquidate and otherwise close out the Transaction and to set off any obligation or right that Buyer or any affiliate of Buyer may have to or against Issuer hereunder or under the Agreement against any right or obligation Buyer or any of its affiliates may have against or to Issuer, including without limitation any right to receive a payment or delivery pursuant to any provision of the Agreement or hereunder. In the case of a set-off of any obligation to release, deliver or pay assets against any right to receive assets of the same type, such obligation and right shall be set off in kind. In the case of a set-off of any obligation to release, deliver or pay assets against any right to receive assets of any other type, the value of each of such obligation and such right shall be determined by the Calculation Agent and the result of such set-off shall be that the net obligor shall pay or deliver to the other party an amount of cash or assets, at the net obligor's option, with a value (determined, in the case of a delivery of assets, by the Calculation Agent) equal to that of the net obligation. In determining the value of any

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obligation to release or deliver Shares or any right to receive Shares, the value at any time of such obligation or right shall be determined by reference to the market value of the Shares at such time, as determined by the Calculation Agent. If an obligation or right is unascertained at the time of any such set-off, the Calculation Agent may in good faith estimate the amount or value of such obligation or right, in which case set-off will be effected in respect of that estimate, and the relevant party shall account to the other party at the time such obligation or right is ascertained.

(iii) Notwithstanding any provision of the Agreement (including without limitation Section 6(f) thereof) and this Confirmation (including without limitation this Section 8(k)) or any other agreement between the parties to the contrary, (A) Issuer shall not net or set off its obligations under the Transaction against its rights against Buyer under any other transaction or instrument; and (B) Buyer may net and set off any rights of Buyer against Issuer arising under the Transaction only against obligations of Buyer to Issuer arising under any transaction or instrument if



such transaction or instrument does not convey rights to Buyer senior to the claims of common stockholders in the event of Issuer's bankruptcy. Buyer will give notice to Issuer of any netting or set off effected under this provision.

(k) *Additional Termination Event.* The occurrence of any one of the following shall constitute an Additional Termination Event with respect to which the Transaction is the sole Affected Transaction and Issuer is the sole Affected Party, and Dealer shall be the party entitled to designate an Early Termination Amount pursuant to Section 6(b) of the Agreement and to determine the Early Termination Amount pursuant to Section 6(e)(ii)(1) of the Agreement; *provided that* with respect to any of the Additional Termination Events set forth below, Dealer may choose to treat part of the Transaction as the sole Affected Transaction, and, upon the termination of the Affected Transaction, a Transaction with terms identical to those set forth herein except with a Number of Warrants equal to the unaffected number of Warrants shall be treated for all purposes as the Transaction, which shall remain in full force and effect:

(i) Buyer reasonably determines that it is advisable to terminate a portion of the Transaction so that Buyer's related hedging activities will comply with applicable securities laws, rules or regulations; or

(ii) there shall occur the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of Issuer and its Restricted Subsidiaries (as defined in the Indenture), taken as a whole, to any "person" (as that term is used in Section 13(d)(3) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")).

(l) *Effectiveness.* If, on or prior to the Effective Date, Buyer reasonably determines that it is advisable to cancel the Transaction because of concerns that Buyer's related hedging activities could be viewed as not complying with applicable securities laws, rules or regulations, the Transaction shall be cancelled and shall not become effective, and neither party shall have any obligation to the other party in respect of the Transaction.

(m) *Extension of Settlement.* Dealer may divide any Component into additional Components and designate the Expiration Date and the Number of Warrants for each such Component if Dealer determines, in its reasonable discretion, that such further division is necessary or advisable to preserve Dealer's hedging activity hereunder in light of existing liquidity conditions in the cash market or stock loan market or to enable Dealer to effect purchases of Shares in connection with its hedging activity hereunder in a manner that would, if Dealer were Issuer or an affiliated purchaser of Issuer, be compliance with applicable legal and regulatory requirements.

(n) *Governing Law.* **THE AGREEMENT AND THIS CONFIRMATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO ITS CHOICE OF LAW DOCTRINE).**

(o) *Amendment.* If the Initial Purchasers party to the Purchase Agreement exercise their right to purchase additional convertible notes as set forth therein, this Confirmation shall be deemed to be

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amended to provide therefore (in each case at the same Premium per Warrant set forth herein and otherwise on terms acceptable to Issuer and Dealer) and, to the extent required, Issuer and Dealer shall amend this Confirmation accordingly (such amendment to this Confirmation to provide for the payment by Dealer to Issuer of the additional total premium related thereto).

(q) *Method of Delivery.* Whenever delivery of funds or other assets is required hereunder by or to Counterparty, such delivery shall be effected through Deutsche Bank AG, New York Branch ("DBNY"). In addition, all notices, demands and communications of any kind relating to the Transaction between Deutsche and Counterparty shall be transmitted exclusively through DBNY.

## **9. Arbitration.**

(a) **All parties to this Confirmation are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.**

(b) **Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.**

(c) **The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.**

(d) **The arbitrators do not have to explain the reason(s) for their award.**

(e) **The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry, unless Issuer is a member of the organization sponsoring the arbitration facility, in which case all arbitrators may be affiliated with the securities industry.**

(f) **The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.**

(g) **The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this Confirmation.**

(h) **Issuer agrees that any and all controversies that may arise between Issuer and Dealer, including, but not limited to, those arising out of or relating to the Agreement or the Transaction hereunder, shall be determined by arbitration conducted before The New York Stock Exchange, Inc. ("NYSE") or NASD Dispute Resolution ("NASD-DR"), or, if the NYSE and NASD-DR decline to hear the matter, before the American Arbitration Association, in accordance with their arbitration rules then in force. The award of the arbitrator shall be final, and judgment upon the award rendered may be entered in any court, state or federal, having jurisdiction.**

(i) No person shall bring a putative or certified class action to arbitration, nor seek to enforce any pre-dispute arbitration agreement against any person who has initiated in court a putative class action or who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action until: (i) the class certification is denied; (ii) the class is decertified; or (iii) Issuer is excluded from the class by the court.

(j) Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this Confirmation except to the extent stated herein.

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Issuer hereby agrees (a) to check this Confirmation carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by Dealer) correctly sets forth the terms of the agreement between Dealer and Issuer with respect to the Transaction, by manually signing this Confirmation or this page hereof as evidence of agreement to such terms and providing the other information requested herein and immediately returning an executed copy to Jonathan Miller, Facsimile No. (732) 578-2650.

Yours faithfully,

**DEUTSCHE BANK AG, LONDON BRANCH**

/s/ Lee Frankenfield, Managing Director  
Authorized Signatory

/s/ Andrea Leung, Managing Director  
Authorized Signatory

**DEUTSCHE BANK AG, NEW YORK**  
acting solely as Agent in connection with this  
Transaction

/s/ Andrew Yaeger, Director  
Authorized Signatory

/s/ Lee Frankenfield, Managing Director  
Authorized Signatory

Agreed and Accepted By:

**ASBURY AUTOMOTIVE GROUP, INC.**

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Chief Financial Officer

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**Annex A**

For each Component of the Transaction, the Number of Warrants and Expiration Date is set forth below.

Component Number	Number of Warrants	Expiration Date
1	22,062	December 14, 2012
2	22,062	December 17, 2012
3	22,062	December 18, 2012
4	22,062	December 19, 2012
5	22,062	December 20, 2012
6	22,062	December 21, 2012
7	22,062	December 24, 2012
8	22,062	December 26, 2012
9	22,063	December 27, 2012
10	22,063	December 28, 2012
11	22,063	December 31, 2012

12	22,063	January 2, 2013
13	22,063	January 3, 2013
14	22,063	January 4, 2013
15	22,063	January 7, 2013
16	22,063	January 8, 2013
17	22,063	January 9, 2013
18	22,063	January 10, 2013
19	22,063	January 11, 2013
20	22,063	January 14, 2013
21	22,063	January 15, 2013
22	22,063	January 16, 2013
23	22,063	January 17, 2013
24	22,063	January 18, 2013
25	22,063	January 22, 2013
26	22,063	January 23, 2013
27	22,063	January 24, 2013
28	22,063	January 25, 2013
29	22,063	January 28, 2013
30	22,063	January 29, 2013
31	22,063	January 30, 2013
32	22,063	January 31, 2013
33	22,063	February 1, 2013
34	22,063	February 4, 2013
35	22,063	February 5, 2013
36	22,063	February 6, 2013
37	22,063	February 7, 2013
38	22,063	February 8, 2013
39	22,063	February 11, 2013
40	22,063	February 12, 2013
41	22,063	February 13, 2013
42	22,063	February 14, 2013
43	22,063	February 15, 2013
44	22,063	February 19, 2013
45	22,063	February 20, 2013
46	22,063	February 21, 2013
47	22,063	February 22, 2013
48	22,063	February 25, 2013
49	22,063	February 26, 2013
50	22,063	February 27, 2013
51	22,063	February 28, 2013

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52	22,063	March 1, 2013
53	22,063	March 4, 2013
54	22,063	March 5, 2013
55	22,063	March 6, 2013
56	22,063	March 7, 2013
57	22,063	March 8, 2013
58	22,063	March 11, 2013
59	22,063	March 12, 2013
60	22,063	March 13, 2013
61	22,063	March 14, 2013
62	22,063	March 15, 2013
63	22,063	March 18, 2013
64	22,063	March 19, 2013
65	22,063	March 20, 2013
66	22,063	March 21, 2013
67	22,063	March 22, 2013
68	22,063	March 25, 2013
69	22,063	March 26, 2013
70	22,063	March 27, 2013
71	22,063	March 28, 2013
72	22,063	April 1, 2013
73	22,063	April 2, 2013
74	22,063	April 3, 2013
75	22,063	April 4, 2013
76	22,063	April 5, 2013
77	22,063	April 8, 2013
78	22,063	April 9, 2013
79	22,063	April 10, 2013
80	22,063	April 11, 2013



**AMENDMENT TO CONFIRMATION**

THIS AMENDMENT (this “**Amendment**”) is made as of this 13th day of March 2007, between Goldman, Sachs & Co. (“**Dealer**”) and Asbury Automotive Group, Inc. (“**Issuer**”).

WHEREAS, Dealer and Issuer are parties to a Confirmation dated as of March 12, 2007 (the “**Confirmation**”) relating to Warrants on shares of common stock (par value USD0.01 per share) of Issuer;

WHEREAS, the parties wish to amend the Confirmation on the terms and conditions set forth in this Amendment;

NOW, THEREFORE, in consideration of their mutual covenants herein contained, the parties hereto agree as follows:

Section 1. *Terms Used but Not Defined Herein.* Terms used but not defined herein shall have the respective meanings given to them in the Confirmation.

Section 2. *Amendment to the Confirmation.*

- (a) The “Premium” under the Confirmation shall be USD3,569,600.
- (b) The “Number of Warrants” under Annex A shall be 16,914 for Components 1 through 9, 16,915 for Components 10 through 79, and 16,915.20 for Component 80.
- (c) Section 8(e) of the Confirmation is amended by replacing the reference to “2,353,376” with “2,706,383”.

Section 3. *Representations and Warranties.*

Issuer represents and warrants to Dealer as follows:

- (a) On the date of this Amendment, (A) Issuer is not aware of any material nonpublic information regarding Issuer or the Shares and (B) all reports and documents filed by Issuer with the Securities and Exchange Commission pursuant to the Exchange Act when considered as a whole (with the more recent such reports and documents deemed to supercede inconsistent statements contained in any earlier such reports and documents) do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.
- (b) Issuer is not entering into this Amendment to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.
- (c) The representations and warranties of Issuer set forth in Section 3 of the Agreement and Section 7 of the Confirmation are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein.

Section 4. *Effectiveness.* This Amendment shall become effective upon execution by the parties hereto.

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Section 5. *Counterparts.* This Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if all of the signatures thereto and hereto were upon the same instrument.

Section 6. *Governing Law.* This Amendment shall be governed by and construed in accordance with the laws of the State of New York.

Section 7. *Effectiveness of Confirmation.* Except as amended hereby, all the terms of the Confirmation shall remain and continue in full force and effect and are hereby confirmed in all respects.

IN WITNESS WHEREOF, the parties have signed this Amendment as of the date and year first above written.

**GOLDMAN, SACHS & CO.**

By: /s/ Debra Tageldein  
 Name: Debra Tageldein  
 Title: Vice President

Agreed and accepted by:

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Chief Financial Officer

## AMENDMENT TO CONFIRMATION

THIS AMENDMENT (this “**Amendment**”) is made as of this 13th day of March 2007, between Deutsche Bank AG, London Branch (“**Dealer**”) and Asbury Automotive Group, Inc. (“**Issuer**”).

WHEREAS, Dealer and Issuer are parties to a Confirmation dated as of March 12, 2007 (the “**Confirmation**”) relating to Warrants on shares of common stock (par value USD0.01 per share) of Issuer;

WHEREAS, the parties wish to amend the Confirmation on the terms and conditions set forth in this Amendment;

NOW, THEREFORE, in consideration of their mutual covenants herein contained, the parties hereto agree as follows:

Section 1. *Terms Used but Not Defined Herein.* Terms used but not defined herein shall have the respective meanings given to them in the Confirmation.

Section 2. *Amendment to the Confirmation.*

- (a) The “Premium” under the Confirmation shall be USD5,354,400.
- (b) The “Number of Warrants” under Annex A shall be 25,372 for Components 1 through 54, 25,373 for Components 55 through 79, and 25,373.8 for Component 80.
- (c) Section 8(e) of the Confirmation is amended by replacing the reference to “3,530,064” with “4,059,574”.

Section 3. *Representations and Warranties.*

Issuer represents and warrants to Dealer as follows:

- (a) On the date of this Amendment, (A) Issuer is not aware of any material nonpublic information regarding Issuer or the Shares and (B) all reports and documents filed by Issuer with the Securities and Exchange Commission pursuant to the Exchange Act when considered as a whole (with the more recent such reports and documents deemed to supercede inconsistent statements contained in any earlier such reports and documents) do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.
- (b) Issuer is not entering into this Amendment to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.
- (c) The representations and warranties of Issuer set forth in Section 3 of the Agreement and Section 7 of the Confirmation are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein.

Section 4. *Effectiveness.* This Amendment shall become effective upon execution by the parties hereto.

---

Section 5. *Counterparts.* This Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if all of the signatures thereto and hereto were upon the same instrument.

Section 6. *Governing Law.* This Amendment shall be governed by and construed in accordance with the laws of the State of New York.

Section 7. *Effectiveness of Confirmation.* Except as amended hereby, all the terms of the Confirmation shall remain and continue in full force and effect and are hereby confirmed in all respects.

IN WITNESS WHEREOF, the parties have signed this Amendment as of the date and year first above written.

**DEUTSCHE BANK AG, LONDON BRANCH**

/s/ Lee Frankenfield, Managing Director  
Authorized Signatory

/s/ Andrea Leung, Managing Director  
Authorized Signatory

**DEUTSCHE BANK AG, NEW YORK**  
acting solely as Agent in connection with this  
Transaction

/s/ Lee Frankenfield, Managing Director  
Authorized Signatory

/s/ Stanley Rowe, Managing Director  
Authorized Signatory

Agreed and accepted by:

**ASBURY AUTOMOTIVE GROUP, INC.**

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Chief Financial Officer

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**Asbury Automotive Group, Inc.****7.625% Senior Subordinated Notes due 2017****Unconditionally Guaranteed as to the  
Payment of Principal, Premium,  
if any, and Interest by the  
Subsidiary Guarantors****Exchange and Registration Rights Agreement**

March 26, 2007

Goldman, Sachs & Co.,  
Deutsche Bank Securities Inc.  
As representatives of the several Purchasers  
named in Schedule I to the Purchase Agreement  
c/o Goldman, Sachs & Co.  
85 Broad Street  
New York, New York 10004

Ladies and Gentlemen:

Asbury Automotive Group, Inc., a Delaware corporation (the "Company"), proposes to issue and sell to the Purchasers (as defined herein) upon the terms set forth in the Purchase Agreement (as defined herein) its 7.625% Senior Subordinated Notes due 2017, which are unconditionally guaranteed by the Subsidiary Guarantors. As an inducement to the Purchasers to enter into the Purchase Agreement and in satisfaction of a condition to the obligations of the Purchasers thereunder, the Company and the Subsidiary Guarantors, jointly and severally, agree with the Purchasers for the benefit of holders (as defined herein) from time to time of the Registrable Securities (as defined herein) as follows:

1. *Certain Definitions.* For purposes of this Exchange and Registration Rights Agreement, the following terms shall have the following respective meanings:

"*Agreement*" means this Exchange and Registration Rights Agreement.

"*Base Interest*" shall mean the interest that would otherwise accrue on the Securities under the terms thereof and the Indenture, without giving effect to the provisions of this Agreement.

The term "*broker-dealer*" shall mean any broker or dealer registered with the Commission under the Exchange Act.

"*Closing Date*" shall mean the date on which the Securities are initially issued.

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"*Commission*" shall mean the United States Securities and Exchange Commission, or any other federal agency at the time administering the Exchange Act or the Securities Act, whichever is the relevant statute for the particular purpose.

"*Effective Time*," in the case of (i) an Exchange Registration, shall mean the time and date as of which the Commission declares the Exchange Registration Statement effective or as of which the Exchange Registration Statement otherwise becomes effective and (ii) a Shelf Registration, shall mean the time and date as of which the Commission declares the Shelf Registration Statement effective or as of which the Shelf Registration Statement otherwise becomes effective (or, if previously effective, designated).

"*Electing Holder*" shall mean any holder of Registrable Securities that has returned a completed and signed Notice and Questionnaire to the Company in accordance with Section 3(d)(ii) or 3(d)(iii) hereof.

"*Exchange Act*" shall mean the Securities Exchange Act of 1934, or any successor thereto, as the same shall be amended from time to time.

"*Exchange Offer*" shall have the meaning assigned thereto in Section 2(a) hereof.

"*Exchange Registration*" shall have the meaning assigned thereto in Section 3(c) hereof.

"*Exchange Registration Statement*" shall have the meaning assigned thereto in Section 2(a) hereof.

"*Exchange Securities*" shall have the meaning assigned thereto in Section 2(a) hereof.

The term "*holder*" shall mean each of the Purchasers and other persons who acquire Registrable Securities from time to time (including any successors or assigns), in each case for so long as such person owns any Registrable Securities.

"*Indenture*" shall mean the Indenture, dated as of March 26, 2007 among the Company, the Subsidiary Guarantors and The Bank of New York, as Trustee, as the same shall be amended from time to time.

“*Notice and Questionnaire*” means a Notice of Registration Statement and Selling Securityholder Questionnaire substantially in the form of Exhibit A hereto.

The term “*person*” shall mean a corporation, association, partnership, organization, business, individual, government or political subdivision thereof or governmental agency.

“*Purchase Agreement*” shall mean the Purchase Agreement, dated March 12, 2007, among the Purchasers, the Subsidiary Guarantors and the Company relating to the Securities.

“*Purchasers*” shall mean the Purchasers named in Schedule I to the Purchase Agreement.

“*Registrable Securities*” shall mean the Securities; *provided, however*, that a Security shall cease to be a Registrable Security when (i) in the circumstances contemplated by Section 2(a) hereof, the Security has been exchanged for an Exchange Security in an Exchange Offer as contemplated in Section 2(a) hereof (*provided* that any Exchange Security that, pursuant to the last two sentences of Section 2(a), is included in a prospectus for use in

connection with resales by broker-dealers shall be deemed to be a Registrable Security with respect to Sections 5, 6 and 9 until resale of such Registrable Security has been effected within the 180-day period referred to in Section 2(a)); (ii) in the circumstances contemplated by Section 2(b) hereof, a Shelf Registration Statement registering such Security under the Securities Act has been declared or becomes effective (or, if previously effective, designated) and such Security has been sold or otherwise transferred by the holder thereof pursuant to and in a manner contemplated by such effective Shelf Registration Statement; (iii) such Security is sold pursuant to Rule 144 under circumstances in which any legend borne by such Security relating to restrictions on transferability thereof, under the Securities Act or otherwise, is removed by the Company or pursuant to the Indenture; (iv) such Security is eligible to be sold pursuant to paragraph (k) of Rule 144; or (v) such Security shall cease to be outstanding.

“*Registration Default*” shall have the meaning assigned thereto in Section 2(c) hereof.

“*Registration Expenses*” shall have the meaning assigned thereto in Section 4 hereof.

“*Resale Period*” shall have the meaning assigned thereto in Section 2(a) hereof.

“*Restricted Holder*” shall mean (i) a holder that is an affiliate of the Company within the meaning of Rule 405, (ii) a holder who acquires Exchange Securities outside the ordinary course of such holder’s business, (iii) a holder who has arrangements or understandings with any person to participate in the Exchange Offer for the purpose of distributing Exchange Securities and (iv) a holder that is a broker-dealer, but only with respect to Exchange Securities received by such broker-dealer pursuant to an Exchange Offer in exchange for Registrable Securities acquired by the broker-dealer directly from the Company.

“*Rule 144*,” “*Rule 405*,” “*Rule 415*” and “*Rule 430B*” shall mean, in each case, such rule promulgated under the Securities Act (or any successor provision), as the same shall be amended from time to time.

“*Securities*” shall mean, collectively, the 7.625% Senior Subordinated Notes due 2017 of the Company to be issued and sold to the Purchasers, and securities issued in exchange therefor or in lieu thereof pursuant to the Indenture. Each Security is entitled to the benefit of each guarantee provided for in the Indenture (the “*Subsidiary Guarantees*”) and, unless the context otherwise requires, any reference herein to a “*Security*,” an “*Exchange Security*” or a “*Registrable Security*” shall include a reference to the related Subsidiary Guarantees.

“*Securities Act*” shall mean the Securities Act of 1933, or any successor thereto, as the same shall be amended from time to time.

“*Shelf Registration*” shall have the meaning assigned thereto in Section 2(b) hereof.

“*Shelf Registration Statement*” shall have the meaning assigned thereto in Section 2(b) hereof.

“*Special Interest*” shall have the meaning assigned thereto in Section 2(c) hereof.

“*Subsidiary Guarantors*” shall have the meaning assigned thereto in the Indenture.

“*Trust Indenture Act*” shall mean the Trust Indenture Act of 1939, or any successor thereto, and the rules, regulations and forms promulgated thereunder, all as the same shall be

amended from time to time.

Unless the context otherwise requires, any reference herein to a “*Section*” or “*clause*” refers to a Section or clause, as the case may be, of this Exchange and Registration Rights Agreement, and the words “*herein*,” “*hereof*” and “*hereunder*” and other words of similar import refer to this Exchange and Registration Rights Agreement as a whole and not to any particular Section or other subdivision.

## 2. Registration Under the Securities Act.

(a) Except as set forth in Section 2(b) below, the Company agrees to file under the Securities Act, as soon as practicable, but no later than 90 days after the Closing Date, a registration statement relating to an offer to exchange (such registration statement, the “Exchange Registration Statement”, and such offer, the “Exchange Offer”) any and all of the Securities for a like aggregate principal amount of debt securities issued by the Company and guaranteed by the Subsidiary Guarantors, which debt securities and guarantees are substantially identical to the Securities and the related Subsidiary Guarantees, respectively (and are entitled to the benefits of a trust indenture which is substantially identical to the Indenture or is the Indenture and which has been qualified under the Trust Indenture Act), except that they have been registered pursuant to an effective registration statement under the Securities Act and do not contain provisions for the additional interest contemplated in Section 2(c) below (such new debt securities hereinafter called “Exchange Securities”). The Company and the Subsidiary Guarantors agree to use their reasonable best efforts to cause the Exchange Registration Statement to become effective under the Securities Act as soon as practicable, but no later than 180 days after the Closing Date. The Exchange Offer will be registered under the Securities Act on the appropriate form and will comply with all applicable tender offer rules and regulations under the Exchange Act. The Company and the Subsidiary Guarantors further agree to use their reasonable best efforts to (i) commence and complete the Exchange Offer on or prior to 30 business days, or longer, if required by the federal securities laws, after such registration statement has become effective, (ii) hold the Exchange Offer open for at least 30 days and (iii) exchange Exchange Securities for all Registrable Securities that have been properly tendered and not withdrawn on or prior to the expiration of the Exchange Offer. The Exchange Offer will be deemed to have been “completed” only if the debt securities and related guarantees received by holders other than Restricted Holders in the Exchange Offer for Registrable Securities are, upon receipt, transferable by each such holder without further compliance with Section 5 of the Securities Act (except for the requirement to deliver a prospectus included in the Exchange Registration Statement applicable to resales by broker-dealers of Exchange Securities received by such broker-dealer pursuant to an Exchange Offer in exchange for Registrable Securities other than those acquired by the broker-dealer directly from the Company) and without material restrictions under the blue sky or securities laws of a substantial majority of the States of the United States of America. The Exchange Offer shall be deemed to have been completed upon the earlier to occur of (i) the Company having exchanged the Exchange Securities for all outstanding Registrable Securities pursuant to the Exchange Offer and (ii) the Company having exchanged, pursuant to the Exchange Offer, Exchange Securities for all Registrable Securities that have been properly tendered and not withdrawn before the expiration of the Exchange Offer, which shall be on a date that is at least 30 days following the commencement of the Exchange Offer. The Company agrees (x) to include in the Exchange Registration Statement a prospectus for use in any resale by any holder of Exchange Securities that is a broker-dealer (where such Exchange Security was received by a broker-dealer in an Exchange Offer in exchange for a Registrable Security that was acquired by such broker-dealer for its own account as a result of market-making or other

trading activities, so long as such Registrable Security was not acquired directly from the Company or an affiliate of the Company) and (y) to keep such Exchange Registration Statement effective for a period (the “Resale Period”) beginning when Exchange Securities are first issued in the Exchange Offer and ending upon the earlier of the expiration of the 180th day after the Exchange Offer has been completed or such time as such broker-dealers no longer own any Registrable Securities. With respect to such Exchange Registration Statement, such holders shall have the benefit of the rights of indemnification and contribution set forth in Sections 6(a), (c), (d) and (e) hereof.

(b) If (i) the Company and the Subsidiary Guarantors are not (A) required to file the Exchange Registration Statement; or (B) permitted to consummate the Exchange Offer, because the Exchange Offer is not permitted by applicable law or Commission policy, (ii) any holder of Registrable Securities notifies the Company in writing prior to the 20th day following the consummation of the Exchange Offer that (X) it is prohibited by applicable law or Commission policy from participating in the Exchange Offer, or (Y) that it may not resell the Exchange Notes acquired by it in the Exchange Offer to the public without delivering a prospectus and the prospectus contained in the Exchange Offer Registration Statement is not appropriate or available for such resales; or (Z) that it is a broker-dealer and owns Securities acquired directly from the Company or an affiliate of the Company, or (iii) the Exchange Offer has not been completed within 225 days following the Closing Date, the Company and the Subsidiary Guarantors will use their reasonable best efforts to file or designate under the Securities Act as soon as practicable, but no later than on or prior to 60 days after the time such obligation to file arises, a “shelf” registration statement providing for the registration of, and the sale on a continuous or delayed basis by the holders of, all of the Registrable Securities affected thereby, pursuant to Rule 415, Rule 430B or any similar rule that may be adopted by the Commission (such filing, the “Shelf Registration” and such registration statement, the “Shelf Registration Statement”). The Company and the Subsidiary Guarantors, jointly and severally, agree to use their reasonable best efforts (x) to cause the Shelf Registration Statement to become or be declared effective (or, if previously effective, designated) no later than 120 days after such obligation arises and to keep such Shelf Registration Statement continuously effective for a period ending on the earlier of the second anniversary of the Effective Time or such time as there are no longer any Registrable Securities outstanding, *provided, however*, that no holder shall be entitled to be named as a selling securityholder in the Shelf Registration Statement or to use the prospectus forming a part thereof for resales of Registrable Securities unless such holder is an Electing Holder who agrees to be bound by all of the provisions of this Agreement applicable to such holder, and (y) after the Effective Time of the Shelf Registration Statement, promptly upon the request of any holder of Registrable Securities that is not then an Electing Holder, to take any action reasonably necessary to enable such holder to use the prospectus forming a part thereof for resales of Registrable Securities, including, without limitation, any action necessary to identify such holder as a selling securityholder in the Shelf Registration Statement, *provided, however*, that nothing in this clause (y) shall relieve any such holder of the obligation to return a completed and signed Notice and Questionnaire to the Company in accordance with Section 3(d)(iii) hereof. The Company and the Subsidiary Guarantors further agree to supplement or make amendments to the Shelf Registration Statement, as and when required by the rules, regulations or instructions applicable to the registration form used by the Company and the Subsidiary Guarantors for such Shelf Registration Statement or by the Securities Act or rules and regulations thereunder for shelf registration, and the Company shall furnish to each Electing Holder copies of any such supplement or amendment prior to its being used or promptly following its filing with the Commission.

(c) In the event that (i) the Company and the Subsidiary Guarantors have not filed or

designated, as applicable, the Exchange Registration Statement or Shelf Registration Statement on or before the date on which such registration statement is required to be filed or designated pursuant to Section 2(a) or 2(b), respectively, or (ii) such Exchange Registration Statement or Shelf Registration Statement has not become effective or been declared effective (or, if previously effective, designated) by the Commission on or before the date on which such registration statement is required to become or be declared effective (or, if previously effective, designated) pursuant to Section 2(a) or 2(b), respectively, or (iii) the Exchange Offer has not been completed within 30 business days after the initial effective date of the Exchange Registration Statement relating to the Exchange Offer (if the Exchange Offer is then required to be made) or (iv) any Exchange Registration Statement or Shelf Registration Statement required by

Section 2(a) or 2(b) hereof is filed and declared effective (or, if previously effective, designated) but shall thereafter, prior to the time such Exchange Registration Statement or Shelf Registration Statement is no longer required to be effective pursuant to Section 2(a) or 2(b) either be withdrawn by the Company or the Subsidiary Guarantors or shall become subject to an effective stop order issued pursuant to Section 8(d) of the Securities Act suspending the effectiveness of such registration statement (except as specifically permitted herein) without being succeeded immediately by an additional registration statement filed and declared effective or designated (each such event referred to in clauses (i) through (iv), a "Registration Default" and each period during which a Registration Default has occurred and is continuing, a "Registration Default Period"), then, as liquidated damages for such Registration Default, subject to the provisions of Section 9(b), special interest ("Special Interest"), in addition to the Base Interest, shall accrue, with respect to the first 90-day period immediately following the occurrence of the first Registration Default, in an amount equal to \$.05 per week per \$1,000 principal amount of Securities held by the Holders. The amount of Special Interest will increase by an additional \$.05 per week per \$1,000 principal amount of Securities with respect to each subsequent 90-day period until all Registration Defaults have been cured, up to a maximum amount of Special Interest for all Registration Defaults of \$.50 per week per \$1,000 principal amount of Securities. Following the cure of all Registration Defaults, the accrual of Special Interest will cease. All accrued Special Interest through each record date with respect to the succeeding Interest Payment Date will be paid by the Company and the Guarantors on each Interest Payment Date (as defined in the Indenture) to the Global Note Holder (as defined in the Indenture) by wire transfer of immediately available funds or by federal funds check and to Holders of Certificated Notes (as defined in the Indenture) by wire transfer to the accounts specified by them or by mailing checks to their registered addresses if no such accounts have been specified.

(d) The Company shall take, and shall cause the Subsidiary Guarantors to take, all actions necessary or advisable to be taken by it to ensure that the transactions contemplated herein are effected as so contemplated, including all actions necessary or desirable to register the Subsidiary Guarantees under the registration statement contemplated in Section 2(a) or 2(b) hereof, as applicable.

(e) Any reference herein to a registration statement as of any time shall be deemed to include any document incorporated, or deemed to be incorporated, therein by reference as of such time and any reference herein to any post-effective amendment to a registration statement as of any time shall be deemed to include any document incorporated, or deemed to be incorporated, therein by reference as of such time.

3. *Registration Procedures.* If the Company and the Subsidiary Guarantors file or designate, as the case may be, a registration statement pursuant to Section 2(a) or Section 2(b), the following provisions shall apply:

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(a) At or before the Effective Time of the Exchange Offer or the Shelf Registration, as the case may be, the Company shall qualify the Indenture under the Trust Indenture Act of 1939.

(b) In the event that such qualification would require the appointment of a new trustee under the Indenture, the Company shall appoint a new trustee thereunder pursuant to the applicable provisions of the Indenture.

(c) In connection with the obligations of the Company and the Subsidiary Guarantors with respect to the registration of Exchange Securities as contemplated by Section 2(a) (the "Exchange Registration"), if applicable, the Company shall, as soon as practicable (or as otherwise specified):

(i) prepare and file with the Commission, no later than 120 days after the Closing Date, an Exchange Registration Statement on any form which may be utilized by the Company and which shall permit the Exchange Offer and resales of Exchange Securities by broker-dealers during the Resale Period to be effected as contemplated by Section 2(a), and use its reasonable best efforts to cause such Exchange Registration Statement to become effective as soon as practicable thereafter, but no later than 180 days after the Closing Date;

(ii) as soon as practicable prepare and file with the Commission such amendments and supplements to such Exchange Registration Statement and the prospectus included therein as may be necessary to effect and maintain the effectiveness of such Exchange Registration Statement for the periods and purposes contemplated in Section 2(a) hereof and as may be required by the applicable rules and regulations of the Commission and the instructions applicable to the form of such Exchange Registration Statement, and promptly provide each broker-dealer holding Exchange Securities with such number of copies of the prospectus included therein (as then amended or supplemented), in conformity in all material respects with the requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder, as such broker-dealer reasonably may request, in a timely manner, prior to the expiration of the Resale Period, for use in connection with resales of Exchange Securities;

(iii) promptly notify each broker-dealer that has requested or received copies of the prospectus included in such registration statement, and confirm such advice in writing, (A) when such Exchange Registration Statement or the prospectus included therein or any prospectus amendment or supplement or post-effective amendment has been filed, and, with respect to such Exchange Registration Statement or any post-effective amendment, when the same has become effective, (B) of any comments by the Commission and by the blue sky or securities commissioner or regulator of any state with respect thereto or any request by the Commission for amendments or supplements to such Exchange Registration Statement or prospectus or for additional information, (C) after receipt by the Company of any notification with respect to the issuance by the Commission of any stop order suspending the effectiveness of such Exchange Registration Statement or the initiation or threatening of any proceedings for that purpose, (D) if at any time the representations and warranties of the Company contemplated by Section 5 cease to be true and correct in all material respects, (E) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Exchange Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose, or (F) at any time during the Resale

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Period when a prospectus is required to be delivered under the Securities Act, that such Exchange Registration Statement, prospectus, prospectus amendment or supplement or post-effective amendment does not conform in all material respects to the applicable requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder or contains an untrue statement of a material fact or omits to

state any material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing;

(iv) in the event that the Company would be required, pursuant to Section 3(e)(iii)(F) above, to notify any broker-dealers holding Exchange Securities, without undue delay prepare and furnish to each such holder a reasonable number of copies of a prospectus supplemented or amended so that, as thereafter delivered to purchasers of such Exchange Securities during the Resale Period, such prospectus shall conform in all material respects to the applicable requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder and shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing;

(v) use its reasonable best efforts to obtain the withdrawal of any order suspending the effectiveness of such Exchange Registration Statement or any post-effective amendment thereto at the earliest practicable date;

(vi) use its reasonable best efforts to (A) register or qualify the Exchange Securities under the securities laws or blue sky laws of such jurisdictions as are contemplated by Section 2(a) no later than the commencement of the Exchange Offer, (B) keep such registrations or qualifications in effect and comply with such laws so as to permit the continuance of offers, sales and dealings therein in such jurisdictions until the expiration of the Resale Period and (C) take any and all other actions as may be reasonably necessary or advisable to enable each broker-dealer holding Exchange Securities to consummate the disposition thereof in such jurisdictions; provided, however, that neither the Company nor the Subsidiary Guarantors shall be required for any such purpose to (1) qualify as a foreign corporation in any jurisdiction wherein it would not otherwise be required to qualify but for the requirements of this Section 3(c)(vi), (2) consent to general service of process in any such jurisdiction or (3) make any changes to its certificate of incorporation or by-laws or any agreement between it and its stockholders;

(vii) use its reasonable best efforts to obtain the consent or approval of each governmental agency or authority, whether federal, state or local, which may be required to effect the Exchange Registration, the Exchange Offer and the offering and sale of Exchange Securities by broker-dealers during the Resale Period;

(viii) provide a CUSIP number for all Exchange Securities, not later than the applicable Effective Time;

(ix) comply with all applicable rules and regulations of the Commission, and make generally available to its securityholders as soon as practicable but no later than eighteen months after the effective date of such Exchange Registration Statement, an earning statement of the Company and its subsidiaries complying with Section 11(a) of the Securities Act (including, at the option of the Company, Rule 158 thereunder).

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(d) In connection with the obligations of the Company and the Subsidiary Guarantors with respect to the Shelf Registration, if applicable, the Company shall, as soon as practicable (or as otherwise specified):

(i) prepare and file with the Commission, or if permitted by Rule 430B, otherwise designate an existing filing with the Commission, as soon as practicable but in any case within the time periods specified in Section 2(b), a Shelf Registration Statement on any form which may be utilized by the Company and which shall register all of the Registrable Securities for resale by the holders thereof in accordance with such method or methods of disposition as may be specified by such of the holders as, from time to time, may be Electing Holders and use its reasonable best efforts to cause such Shelf Registration Statement to become effective or, if previously effective, designated as soon as practicable but in any case within the time periods specified in Section 2(b);

(ii) not less than 30 calendar days prior to the Effective Time of the Shelf Registration Statement, mail the Notice and Questionnaire to the holders of Registrable Securities; provided, that no holder shall be entitled to be named as a selling securityholder in the Shelf Registration Statement as of the Effective Time, and no holder shall be entitled to use the prospectus forming a part thereof for resales of Registrable Securities at any time, unless such holder has returned a completed and signed Notice and Questionnaire to the Company by the deadline for response set forth therein; and provided, further that holders of Registrable Securities shall have at least 28 calendar days from the date on which the Notice and Questionnaire is first mailed to such holders to return a completed and signed Notice and Questionnaire to the Company;

(iii) after the Effective Time of the Shelf Registration Statement, upon the request of any holder of Registrable Securities that is not then an Electing Holder, promptly send a Notice and Questionnaire to such holder; provided that the Company shall not be required to take any action to name such holder as a selling securityholder in the Shelf Registration Statement or to enable such holder to use the prospectus forming a part thereof for resales of Registrable Securities until such holder has returned a completed and signed Notice and Questionnaire to the Company;

(iv) as soon as practicable prepare and file with the Commission such amendments and supplements to such Shelf Registration Statement and the prospectus included therein as may be necessary to effect and maintain the effectiveness of such Shelf Registration Statement for the period specified in Section 2(b) hereof and as may be required by the applicable rules and regulations of the Commission and the instructions applicable to the form of such Shelf Registration Statement, and furnish to the Electing Holders copies of any such supplement or amendment simultaneously with or prior to its being used or filed with the Commission;

(v) comply with the provisions of the Securities Act with respect to the disposition of all of the Registrable Securities covered by such Shelf Registration Statement in accordance with the intended methods of disposition by the Electing Holders provided for in such Shelf Registration Statement;

(vi) provide (A) the Electing Holders, (B) the underwriters (which term, for purposes of this Exchange and Registration Rights Agreement, shall include a person

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deemed to be an underwriter within the meaning of Section 2(a)(11) of the Securities Act), if any, thereof, (C) any sales or placement agent therefor, (D) counsel for any such underwriter or agent and (E) not more than one counsel for all the Electing Holders the opportunity to participate in the preparation of such Shelf Registration Statement, each prospectus included therein or filed with the Commission and each amendment or supplement thereto;

(vii) for a reasonable period prior to the filing or designation of such Shelf Registration Statement, and throughout the period specified in Section 2(b), make available at reasonable times at the Company's principal place of business or such other reasonable place for inspection by the persons referred to in Section 3(d)(vi) who shall certify to the Company that they have a current intention to sell the Registrable Securities pursuant to the Shelf Registration such financial and other information and books and records of the Company, and cause the officers, employees, counsel and independent certified public accountants of the Company to respond to such inquiries, as shall be reasonably necessary, in the judgment of the respective counsel referred to in such Section, to conduct a reasonable investigation within the meaning of Section 11 of the Securities Act; provided, however, that each such party shall be required to maintain in confidence and not to disclose to any other person any information or records reasonably designated by the Company as being confidential, until such time as (A) such information becomes a matter of public record (whether by virtue of its inclusion in such registration statement or otherwise), or (B) such person shall be required so to disclose such information pursuant to a subpoena or order of any court or other governmental agency or body having jurisdiction over the matter (subject to the requirements of such order, and only after such person shall have given the Company prompt prior written notice of such requirement), or (C) such information is required to be set forth in such Shelf Registration Statement or the prospectus included therein or in an amendment to such Shelf Registration Statement or an amendment or supplement to such prospectus in order that such Shelf Registration Statement, prospectus, amendment or supplement, as the case may be, complies with applicable requirements of the federal securities laws and the rules and regulations of the Commission and does not contain an untrue statement of a material fact or omit to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing;

(viii) promptly notify each of the Electing Holders, any sales or placement agent therefor and any underwriter thereof (which notification may be made through any managing underwriter that is a representative of such underwriter for such purpose) and confirm such advice in writing, (A) when such Shelf Registration Statement has been filed or designated or the prospectus included therein or any prospectus amendment or supplement or post-effective amendment has been filed, and, with respect to such Shelf Registration Statement or any post-effective amendment, when the same has become effective, (B) of any comments by the Commission and by the blue sky or securities commissioner or regulator of any state with respect thereto or any request by the Commission for amendments or supplements to such Shelf Registration Statement or prospectus or for additional information, (C) after receipt by the Company of any notification with respect to the issuance by the Commission of any stop order suspending the effectiveness of such Shelf Registration Statement or the initiation or threatening of any proceedings for that purpose, (D) if at any time the representations and warranties of the Company contemplated by Section 3(d)(xvii) or Section 5 cease to be true and correct in all material respects, (E) of the receipt by the Company of any

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notification with respect to the suspension of the qualification of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose, or (F) if at any time when a prospectus is required to be delivered under the Securities Act, that such Shelf Registration Statement, prospectus, prospectus amendment or supplement or post-effective amendment does not conform in all material respects to the applicable requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder or contains an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing;

(ix) use its reasonable best efforts to obtain the withdrawal of any order suspending the effectiveness of such registration statement or any post-effective amendment thereto at the earliest practicable date;

(x) if requested by any managing underwriter or underwriters, any placement or sales agent or any Electing Holder, promptly incorporate in a prospectus supplement or post-effective amendment such information as is required by the applicable rules and regulations of the Commission and as such managing underwriter or underwriters, such agent or such Electing Holder specifies should be included therein relating to the terms of the sale of such Registrable Securities, including information with respect to the principal amount of Registrable Securities being sold by such Electing Holder or agent or to any underwriters, the name and description of such Electing Holder, agent or underwriter, the offering price of such Registrable Securities and any discount, commission or other compensation payable in respect thereof, the purchase price being paid therefor by such underwriters and with respect to any other terms of the offering of the Registrable Securities to be sold by such Electing Holder or agent or to such underwriters; and make all required filings of such prospectus supplement or post-effective amendment promptly after notification of the matters to be incorporated in such prospectus supplement or post-effective amendment;

(xi) furnish to each Electing Holder, each placement or sales agent, if any, therefor, each underwriter, if any, thereof and the respective counsel referred to in Section 3(d)(vi) a copy of such Shelf Registration Statement, each such amendment and supplement thereto (in each case including all exhibits thereto (in the case of an Electing Holder of Registrable Securities, upon request) and documents incorporated by reference therein) and such number of copies of such Shelf Registration Statement (excluding exhibits thereto and documents incorporated by reference therein unless specifically so requested by such Electing Holder, agent or underwriter, as the case may be) and of the prospectus included in such Shelf Registration Statement (including each preliminary prospectus and any summary prospectus), in conformity in all material respects with the applicable requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder, and such other documents, as such Electing Holder, agent, if any, and underwriter, if any, may reasonably request in order to facilitate the offering and disposition of the Registrable Securities owned by such Electing Holder, offered or sold by such agent or underwritten by such underwriter and to permit such Electing Holder, agent and underwriter to satisfy the prospectus delivery requirements of the Securities Act; and the Company hereby consents to the use of such prospectus (including such preliminary and summary prospectus) and any amendment or supplement thereto by each such Electing Holder and by any such agent and underwriter, in each case in the form most recently provided

to such person by the Company, in connection with the offering and sale of the Registrable Securities covered by the prospectus (including such preliminary and summary prospectus) or any supplement or amendment thereto;

(xii) use reasonable best efforts to (A) register or qualify the Registrable Securities to be included in such Shelf Registration Statement under such securities laws or blue sky laws of such jurisdictions as any Electing Holder and each placement or sales agent, if any, therefor and underwriter, if any, thereof shall reasonably request, (B) keep such registrations or qualifications in effect and comply with such laws so as to permit the continuance of offers, sales and dealings therein in such jurisdictions during the period the Shelf Registration is required to remain effective under Section 2(b) above and for so long as may be necessary to enable any such Electing Holder, agent or underwriter to complete its distribution of Securities pursuant to such Shelf Registration Statement and (C) take any and all other actions as may be reasonably necessary or advisable to enable each such Electing Holder, agent, if any, and underwriter, if any, to consummate the disposition in such jurisdictions of such Registrable Securities; provided, however, that neither the Company nor the Subsidiary Guarantors shall be required for any such purpose to (1) qualify as a foreign corporation in any jurisdiction wherein it would not otherwise be required to qualify but for the requirements of this Section 3(d) (xii), (2) consent to general service of process in any such jurisdiction or (3) make any changes to its certificate of incorporation or by-laws or any agreement between it and its stockholders;

(xiii) use its reasonable best efforts to obtain the consent or approval of each governmental agency or authority, whether federal, state or local, which may be required to effect the Shelf Registration or the offering or sale in connection therewith or to enable the selling holder or holders to offer, or to consummate the disposition of, their Registrable Securities;

(xiv) unless any Registrable Securities shall be in book-entry only form, cooperate with the Electing Holders and the managing underwriters, if any, to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold, which certificates, if so required by any securities exchange upon which any Registrable Securities are listed, shall be penned, lithographed or engraved, or produced by any combination of such methods, on steel engraved borders, and which certificates shall not bear any restrictive legends; and, in the case of an underwritten offering, enable such Registrable Securities to be in such denominations and registered in such names as the managing underwriters may request at least two business days prior to any sale of the Registrable Securities;

(xv) provide a CUSIP number for all Registrable Securities, not later than the applicable Effective Time;

(xvi) enter into such customary agreements, including if requested, an underwriting agreement in customary form, and take such other actions in connection therewith as any Electing Holders aggregating at least 20% in aggregate principal amount of the Registrable Securities at the time outstanding shall request in order to expedite or facilitate the disposition of such Registrable Securities, *provided*, that the Company shall not be required to enter into any such agreement more than two times with respect to all the Registrable Securities and may delay entering into such agreement until the consummation of any underwritten public offering in which the

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Company shall have then engaged;

(xvii) whether or not an agreement of the type referred to in Section 3(d)(xvi) hereof is entered into and whether or not any portion of the offering contemplated by the Shelf Registration is an underwritten offering or is made through a placement or sales agent or any other entity, (A) make such representations and warranties to the Electing Holders and the placement or sales agent, if any, therefor and the underwriters, if any, thereof in form, substance and scope as are customarily made in connection with an offering of debt securities pursuant to any appropriate agreement or to a registration statement filed on the form applicable to the Shelf Registration; (B) obtain an opinion of counsel to the Company in customary form and covering matters of the type customarily covered by such an opinion, as the managing underwriters, if any, or as any Electing Holders of at least 20% in aggregate principal amount of the Registrable Securities at the time outstanding may reasonably request, addressed to such Electing Holder or Electing Holders and the placement or sales agent, if any, therefor and the underwriters, if any, thereof and dated the effective date of such Shelf Registration Statement (and if such Shelf Registration Statement contemplates an underwritten offering of a part or all of the Registrable Securities, dated the date of the closing under the underwriting agreement relating thereto) (it being agreed that the matters to be covered by such opinion shall include the due incorporation and good standing of the Company and its subsidiaries; the qualification of the Company and its subsidiaries to transact business as foreign corporations; the due authorization, execution and delivery of the relevant agreement of the type referred to in Section 3(d)(xvi) hereof; the due authorization, execution, authentication and issuance, and the validity and enforceability, of the applicable registrable Securities; the absence of material legal or governmental proceedings involving the Company; the absence of a breach by the Company or any of its subsidiaries of, or a default under, material agreements binding upon the Company or any subsidiary of the Company; the absence of governmental approvals required to be obtained in connection with the Shelf Registration, the offering and sale of the Registrable Securities, this Exchange and Registration Rights Agreement or any agreement of the type referred to in Section 3(d)(xvi) hereof, except such approvals as may be required under state securities or blue sky laws; the material compliance as to form of such Shelf Registration Statement and any documents incorporated by reference therein and of the Indenture with the requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder, respectively; and, as of the date of the opinion and of the Shelf Registration Statement or most recent post-effective amendment thereto, as the case may be, the absence from such Shelf Registration Statement and the prospectus included therein, as then amended or supplemented, and from the documents incorporated by reference therein (in each case other than the financial statements and other financial information contained therein) of an untrue statement of a material fact or the omission to state therein a material fact necessary to make the statements therein not misleading (in the case of such documents, in the light of the circumstances existing at the time that such documents were filed with the Commission under the Exchange Act)); (C) obtain a "cold comfort" letter or letters from the independent certified public accountants of the Company addressed to the selling Electing Holders, the placement or sales agent, if any, therefor or the underwriters, if any, thereof, dated (i) the effective date of such Shelf Registration Statement (or, if previously effective, the designation date) and (ii) the effective date of any prospectus supplement to the prospectus included in such Shelf Registration Statement or post-effective amendment to such Shelf Registration Statement which includes

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unaudited or audited financial statements as of a date or for a period subsequent to that of the latest such statements included in such prospectus (and, if such Shelf Registration Statement contemplates an underwritten offering pursuant to any prospectus supplement to the prospectus included in such Shelf Registration Statement or post-effective amendment to such Shelf Registration Statement which includes unaudited or audited financial statements as of a date or for a period subsequent to that of the latest such statements included in such prospectus, dated the date of the closing under the underwriting agreement relating thereto), such letter or letters to be in customary form and covering such matters of the type customarily covered by letters of such type; (D) deliver such documents and certificates, including officers' certificates, as may be reasonably requested by any Electing Holders of at least 20% in aggregate principal amount of the Registrable Securities at the time outstanding or the placement or sales agent, if any, therefor and the managing underwriters, if any, thereof to evidence the accuracy of the representations and warranties made pursuant to clause (A) above or those contained in Section 5(a) hereof and the compliance with or satisfaction of any agreements or conditions contained in the underwriting agreement or other agreement entered into by the Company or the Subsidiary Guarantors; and (E) undertake such obligations relating to expense reimbursement, indemnification and contribution as are provided in Section 6 hereof;

(xviii) notify in writing each holder of Registrable Securities of any proposal by the Company to amend or waive any provision of this Exchange and Registration Rights Agreement pursuant to Section 9(h) hereof and of any amendment or waiver effected pursuant thereto, each of which notices shall contain the text of the amendment or waiver proposed or effected, as the case may be;

(xix) in the event that any broker-dealer registered under the Exchange Act shall underwrite any Registrable Securities or participate as a member of an underwriting syndicate or selling group or "assist in the distribution" (within the meaning of the Conduct Rules (the "Conduct Rules") of the National Association of Securities Dealers, Inc. ("NASD") or any successor thereto, as amended from time to time) thereof, whether as a holder of such Registrable Securities or as an underwriter, a placement or sales agent or a broker or dealer in respect thereof, or otherwise, assist such broker-dealer in complying with the requirements of such Conduct Rules, including by (A) if such Conduct Rules shall so require, engaging a "qualified independent underwriter" (as defined in such Conduct Rules) to participate in the preparation of the Shelf Registration Statement relating to such Registrable Securities, to exercise usual standards of due diligence in respect thereto and, if any portion of the offering contemplated by such Shelf Registration Statement is an underwritten offering or is made through a placement or sales agent, to recommend the yield of such Registrable Securities, (B) indemnifying any such qualified independent underwriter to the extent of the indemnification of underwriters provided in Section 6 hereof (or to such other customary extent as may be requested by such underwriter), and (C) providing such information to such broker-dealer as may be required in order for such broker-dealer to comply with the requirements of the Conduct Rules; and

(xx) comply with all applicable rules and regulations of the Commission, and make generally available to its securityholders as soon as practicable but in any event not later than eighteen months after the effective date of such Shelf Registration Statement (or, if previously effective, the designation date), an earning statement of the Company and its subsidiaries complying with Section 11(a) of the Securities Act

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(including, at the option of the Company, Rule 158 thereunder).

(e) In the event that the Company would be required, pursuant to Section 3(d)(viii)(F) above, to notify the Electing Holders, the placement or sales agent, if any, therefor and the managing underwriters, if any, thereof, the Company shall without undue delay prepare and furnish to each of the Electing Holders, to each placement or sales agent, if any, and to each such underwriter, if any, a reasonable number of copies of a prospectus supplemented or amended so that, as thereafter delivered to purchasers of Registrable Securities, such prospectus shall conform in all material respects to the applicable requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder and shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing. Each Electing Holder agrees that upon receipt of any notice from the Company pursuant to Section 3(d)(viii)(F) hereof, such Electing Holder shall forthwith discontinue the disposition of Registrable Securities pursuant to the Shelf Registration Statement applicable to such Registrable Securities until such Electing Holder shall have received copies of such amended or supplemented prospectus, and if so directed by the Company, such Electing Holder shall deliver to the Company (at the Company's expense) all copies, other than permanent file copies, then in such Electing Holder's possession of the prospectus covering such Registrable Securities at the time of receipt of such notice.

(f) In the event of a Shelf Registration, in addition to the information required to be provided by each Electing Holder in its Notice Questionnaire, the Company may require such Electing Holder to furnish to the Company such additional information regarding such Electing Holder and such Electing Holder's intended method of distribution of Registrable Securities as may be required in order to comply with the Securities Act. Each such Electing Holder agrees to notify the Company as promptly as practicable of any inaccuracy or change in information previously furnished by such Electing Holder to the Company or of the occurrence of any event in either case as a result of which any prospectus relating to such Shelf Registration contains or would contain an untrue statement of a material fact regarding such Electing Holder or such Electing Holder's intended method of disposition of such Registrable Securities or omits to state any material fact regarding such Electing Holder or such Electing Holder's intended method of disposition of such Registrable Securities required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing, and promptly to furnish to the Company any additional information required to correct and update any previously furnished information or required so that such prospectus shall not contain, with respect to such Electing Holder or the disposition of such Registrable Securities, an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing.

(g) Until the expiration of two years after the Closing Date, the Company will not, and will not permit any of its "affiliates" (as defined in Rule 144) to, resell any of the Securities that have been reacquired by any of them except pursuant to an effective registration statement under the Securities Act.

4. *Registration Expenses.* The Company agrees to bear and to pay or cause to be paid promptly all expenses incident to the Company's performance of or compliance with this Exchange and Registration Rights Agreement, including (a) all Commission and any NASD registration, filing and review fees and expenses including fees and disbursements of counsel for the placement or sales agent or underwriters in connection with such registration, filing and



review, (b) all fees and expenses in connection with the qualification of the Securities for offering and sale under the State securities and blue sky laws referred to in Section 3(d)(xii) hereof and determination of their eligibility for investment under the laws of such jurisdictions as any managing underwriters or the Electing Holders may designate, including any fees and disbursements of counsel for the Electing Holders or underwriters in connection with such qualification and determination, (c) all expenses relating to the preparation, printing, production, distribution and reproduction of each registration statement required to be filed hereunder, each prospectus included therein or prepared for distribution pursuant hereto, each amendment or supplement to the foregoing, the expenses of preparing the Securities for delivery and the expenses of printing or producing any underwriting agreements, agreements among underwriters, selling agreements and blue sky or legal investment memoranda and all other documents in connection with the offering, sale or delivery of Securities to be disposed of (including certificates representing the Securities), (d) messenger, telephone and delivery expenses relating to the offering, sale or delivery of Securities and the preparation of documents referred in clause (c) above, (e) reasonable fees and expenses of the Trustee under the Indenture, any agent of the Trustee and any counsel for the Trustee and of any collateral agent or custodian, (f) internal expenses (including all salaries and expenses of the Company's officers and employees performing legal or accounting duties), (g) fees, disbursements and expenses of counsel and independent certified public accountants of the Company (including the reasonable expenses of any opinions or "cold comfort" letters required by or incident to such performance and compliance), (h) reasonable fees, disbursements and expenses of any "qualified independent underwriter" engaged pursuant to Section 3(d)(xix) hereof, (i) reasonable fees, disbursements and expenses of one counsel for the Electing Holders retained in connection with a Shelf Registration, as selected by the Electing Holders of at least a majority in aggregate principal amount of the Registrable Securities held by Electing Holders (which counsel shall be reasonably satisfactory to the Company), (j) any fees charged by securities rating services for rating the Securities, and (k) reasonable fees, expenses and disbursements of any other persons, including special experts, retained by the Company in connection with such registration (collectively, the "Registration Expenses"). To the extent that any Registration Expenses are incurred, assumed or paid by any holder of Registrable Securities or any placement or sales agent therefor or underwriter thereof, the Company shall reimburse such person for the full amount of the Registration Expenses so incurred, assumed or paid promptly after receipt of a request therefor. Notwithstanding the foregoing, the holders of the Registrable Securities being registered shall pay all agency fees and commissions and underwriting discounts and commissions attributable to the sale of such Registrable Securities and the fees and disbursements of any counsel or other advisors or experts retained by such holders (severally or jointly), other than the counsel and experts specifically referred to above.

5. *Representations and Warranties.* The Company and the Subsidiary Guarantors, jointly and severally, represent and warrant to, and agree with, each Purchaser and each of the holders from time to time of Registrable Securities that:

(a) Each registration statement covering Registrable Securities and each prospectus (including any preliminary or summary prospectus) contained therein or furnished pursuant to Section 3(c) or Section 3(d) hereof and any further amendments or supplements to any such registration statement or prospectus, when it becomes effective or is filed with the Commission, as the case may be, and, in the case of an underwritten offering of Registrable Securities, at the time of the closing under the underwriting agreement relating thereto, will conform in all material respects to the requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the

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statements therein not misleading; and at all times subsequent to the Effective Time when a prospectus would be required to be delivered under the Securities Act, other than from (i) such time as a notice has been given to holders of Registrable Securities pursuant to Section 3(d)(viii)(F) or Section 3(c)(iii)(F) hereof until (ii) such time as the Company furnishes an amended or supplemented prospectus pursuant to Section 3(e) or Section 3(c)(iv) hereof, each such registration statement, and each prospectus (including any summary prospectus) contained therein or furnished pursuant to Section 3(d) or Section 3(c) hereof, as then amended or supplemented, will conform in all material respects to the requirements of the Securities Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing; *provided, however*, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by a holder of Registrable Securities expressly for use therein.

(b) Any documents incorporated by reference in any prospectus referred to in Section 5(a) hereof, when they become or became effective or are or were filed with the Commission, as the case may be, will conform or conformed in all material respects to the requirements of the Securities Act or the Exchange Act, as applicable, and none of such documents will contain or contained an untrue statement of a material fact or will omit or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; *provided, however*, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by a holder of Registrable Securities expressly for use therein.

(c) The compliance by the Company and the Subsidiary Guarantors with all of the provisions of this Exchange and Registration Rights Agreement and the consummation of the transactions herein contemplated will not (i) conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company, any subsidiary of the Company or any Subsidiary Guarantor is a party or by which the Company, any subsidiary of the Company or any Subsidiary Guarantor is bound or to which any of the property or assets of the Company, any subsidiary of the Company or any Subsidiary Guarantor is subject, nor (ii) result in any violation of the provisions of the certificate of incorporation, as amended, or the by-laws of the Company or any certificate of incorporation or by-laws, certificate of formation or limited liability company agreement or certificate of limited partnership or limited partnership agreement of any Subsidiary Guarantor or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company, any subsidiary of the Company or any Subsidiary Guarantor or any of their respective properties, except, in the case of the clauses (i) and (ii) above, such breaches or violations which would not, individually or in the aggregate, have any material adverse change in or affecting the general affairs, management, financial position, shareholders' equity or results of operations of the Company and the Subsidiary Guarantors taken as a whole or be reasonably likely to prevent the Company or the Subsidiary Guarantors from performing their respective obligations hereunder; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the consummation by the Company and the Subsidiary Guarantors of the transactions contemplated by this Exchange and Registration Rights Agreement, except the registration under the Securities Act of the Securities, qualification of the Indenture under the Trust Indenture Act and such consents, approvals, authorizations, registrations or qualifications as may be required under State securities or blue

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sky laws in connection with the offering and distribution of the Securities.

(d) This Exchange and Registration Rights Agreement has been duly authorized, executed and delivered by the Company and each Subsidiary Guarantor.

#### 6. *Indemnification.*

(a) *Indemnification by the Company and the Subsidiary Guarantors.* The Company and the Subsidiary Guarantors, jointly and severally, will indemnify and hold harmless each of the holders of Registrable Securities included in an Exchange Registration Statement, each of the Electing Holders of Registrable Securities included in a Shelf Registration Statement and each person who participates as a placement or sales agent or as an underwriter in any offering or sale of such Registrable Securities against any losses, claims, damages or liabilities, joint or several, to which such holder, agent or underwriter may become subject under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in any Exchange Registration Statement or Shelf Registration Statement, as the case may be, under which such Registrable Securities were registered under the Securities Act, or any preliminary, final or summary prospectus contained therein or furnished by the Company to any such holder, Electing Holder, agent or underwriter, or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse such holder, such Electing Holder, such agent and such underwriter for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such action or claim as such expenses are incurred; *provided, however*, that neither the Company nor any Subsidiary Guarantor shall be liable to any such person in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in such registration statement, or preliminary, final or summary prospectus, or amendment or supplement thereto (i) in reliance upon and in conformity with written information furnished to the Company by such person expressly for use therein or (ii) distributed by such person in contravention of a reasonable written direction provided by the Company to such person in advance of such distribution in accordance with Section 3(e).

(b) *Indemnification by the Holders and any Agents and Underwriters.* The Company may require, as a condition to including any Registrable Securities in any registration statement filed or designated pursuant to Section 2(b) hereof and to entering into any underwriting agreement with respect thereto, that the Company shall have received an undertaking reasonably satisfactory to it from the Electing Holder of such Registrable Securities and from each underwriter named in any such underwriting agreement, severally and not jointly, to (i) indemnify and hold harmless the Company, the Subsidiary Guarantors, each person who controls the Company or any of the Subsidiary Guarantors within the meaning of the Securities Act or Exchange Act and all other holders of Registrable Securities, against any losses, claims, damages or liabilities to which the Company, the Subsidiary Guarantors or such other holders of Registrable Securities may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in such registration statement, or any preliminary, final or summary prospectus contained therein or furnished by the Company to any such Electing Holder, agent or underwriter, or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged

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omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company by such Electing Holder or underwriter expressly for use therein, and (ii) reimburse the Company and the Subsidiary Guarantors for any legal or other expenses reasonably incurred by the Company and the Subsidiary Guarantors in connection with investigating or defending any such action or claim as such expenses are incurred; *provided, however*, that no such Electing Holder shall be required to undertake liability to any person under this Section 6(b) for any amounts in excess of the dollar amount of the proceeds to be received by such Electing Holder from the sale of such Electing Holder's Registrable Securities pursuant to such registration.

(c) *Notices of Claims, Etc.* Promptly after receipt by an indemnified party under subsection (a) or (b) above of written notice of the commencement of any action or proceeding for which indemnification is sought, such indemnified party shall, if a claim in respect thereof is to be made against an indemnifying party pursuant to the indemnification provisions of or contemplated by this Section 6, notify such indemnifying party in writing of the commencement of such action; but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to any indemnified party otherwise than under the indemnification provisions of or contemplated by Section 6(a) or 6(b) hereof. In case any such action shall be brought against any indemnified party and it shall notify an indemnifying party of the commencement thereof, such indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, such indemnifying party shall not be liable to such indemnified party for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) *Contribution.* If for any reason the indemnification provisions contemplated by Section 6(a) or Section 6(b) are unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the indemnifying party and the indemnified party in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative fault of such indemnifying party and indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by such indemnifying party or by such indemnified party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent

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such statement or omission. The parties hereto agree that it would not be just and equitable if contributions pursuant to this Section 6(d) were determined by pro rata allocation (even if the holders or any agents or underwriters or all of them were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 6(d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages, or liabilities (or actions in respect thereof) referred to above shall be deemed to include any legal or other fees or expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 6(d), no holder shall be required to contribute any amount in excess of the amount by which the dollar amount of the proceeds received by such holder from the sale of any Registrable Securities (after deducting any fees, discounts and commissions applicable thereto) exceeds the amount of any damages which such holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission, and no underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Registrable Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The holders' and any underwriters' obligations in this Section 6(d) to contribute shall be several in proportion to the principal amount of Registrable Securities registered or underwritten, as the case may be, by them and not joint.

(e) The obligations of the Company and the Subsidiary Guarantors under this Section 6 shall be in addition to any liability which the Company or the Subsidiary Guarantors may otherwise have and shall extend, upon the same terms and conditions, to each officer, director and partner of each holder, agent and underwriter and each person, if any, who controls any holder, agent or underwriter within the meaning of the Securities Act; and the obligations of the holders and any agents or underwriters contemplated by this Section 6 shall be in addition to any liability which the respective holder, agent or underwriter may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company or the Subsidiary Guarantors (including any person who, with his consent, is named in any registration statement as about to become a director of the Company or the Subsidiary Guarantors) and to each person, if any, who controls the Company within the meaning of the Securities Act.

## *7. Underwritten Offerings.*

(a) *Selection of Underwriters.* If any of the Registrable Securities covered by the Shelf Registration are to be sold pursuant to an underwritten offering, the managing underwriter or underwriters thereof shall be designated by Electing Holders holding at least a majority in aggregate principal amount of the Registrable Securities to be included in such offering, provided that such designated managing underwriter or underwriters is or are reasonably acceptable to the Company.

(b) *Participation by Holders.* Each holder of Registrable Securities hereby agrees with each other such holder that no such holder may participate in any underwritten offering hereunder unless such holder (i) agrees to sell such holder's Registrable Securities on the basis provided in any underwriting arrangements approved by the persons entitled hereunder to approve such arrangements and (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the

terms of such underwriting arrangements.

8. *Rule 144.* The Company covenants to the holders of Registrable Securities that to the extent it shall be required to do so under the Exchange Act, the Company shall timely file the reports required to be filed by it under the Exchange Act or the Securities Act (including the reports under Section 13 and 15(d) of the Exchange Act referred to in subparagraph (c)(1) of Rule 144 adopted by the Commission under the Securities Act) and the rules and regulations adopted by the Commission thereunder, and shall take such further action as any holder of Registrable Securities may reasonably request, all to the extent required from time to time to enable such holder to sell Registrable Securities without registration under the Securities Act within the limitations of the exemption provided by Rule 144 under the Securities Act, as such Rule may be amended from time to time, or any similar or successor rule or regulation hereafter adopted by the Commission. Upon the request of any holder of Registrable Securities in connection with that holder's sale pursuant to Rule 144, the Company shall deliver to such holder a written statement as to whether it has complied with such requirements.

## *9. Miscellaneous.*

(a) *No Inconsistent Agreements.* The Company represents, warrants, covenants and agrees that it has not granted, and shall not grant, registration rights with respect to Registrable Securities or any other securities which would be inconsistent with the terms contained in this Exchange and Registration Rights Agreement.

(b) *Specific Performance.* The parties hereto acknowledge that there would be no adequate remedy at law if the Company fails to perform any of its obligations hereunder and that the Purchasers and the holders from time to time of the Registrable Securities may be irreparably harmed by any such failure, and accordingly agree that the Purchasers and such holders, in addition to any other remedy to which they may be entitled at law or in equity, shall be entitled to compel specific performance of the obligations of the Company under this Exchange and Registration Rights Agreement in accordance with the terms and conditions of this Exchange and Registration Rights Agreement, in any court of the United States or any State thereof having jurisdiction.

(c) *Notices.* All notices, requests, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand, if delivered personally or by courier, or three days after being deposited in the mail (registered or certified mail, postage prepaid, return receipt requested) as follows: If to the Company or a Subsidiary Guarantor, to the Company at 622 Third Avenue, 37<sup>th</sup> Floor, New York, New York 10017, and if to a holder, to the address of such holder set forth in the security register or other records of the Company, or to such other address as the Company or any such holder may have furnished to the other in writing in accordance herewith, except that notices of change of address shall be effective only upon receipt.

(d) *Parties in Interest.* All the terms and provisions of this Exchange and Registration Rights Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the parties hereto and the holders from time to time of the Registrable Securities and the respective successors and assigns of

the parties hereto and such holders. In the event that any transferee of any holder of Registrable Securities shall acquire Registrable Securities, in any manner, whether by gift, bequest, purchase, operation of law or otherwise, such transferee shall, without any further writing or action of any kind, be deemed a beneficiary hereof for all purposes and such Registrable Securities shall be held subject to all of the terms of this Exchange and

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Registration Rights Agreement, and by taking and holding such Registrable Securities such transferee shall be entitled to receive the benefits of, and be conclusively deemed to have agreed to be bound by all of the applicable terms and provisions of this Exchange and Registration Rights Agreement. If the Company shall so request, any such successor, assign or transferee shall agree in writing to acquire and hold the Registrable Securities subject to all of the applicable terms hereof.

(e) *Survival.* The respective indemnities, agreements, representations, warranties and each other provision set forth in this Exchange and Registration Rights Agreement or made pursuant hereto shall remain in full force and effect regardless of any investigation (or statement as to the results thereof) made by or on behalf of any holder of Registrable Securities, any director, officer or partner of such holder, any agent or underwriter or any director, officer or partner thereof, or any controlling person of any of the foregoing, and shall survive delivery of and payment for the Registrable Securities pursuant to the Purchase Agreement and the transfer and registration of Registrable Securities by such holder and the consummation of an Exchange Offer.

(f) *Governing Law.* This Exchange and Registration Rights Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(g) *Headings.* The descriptive headings of the several Sections and paragraphs of this Exchange and Registration Rights Agreement are inserted for convenience only, do not constitute a part of this Exchange and Registration Rights Agreement and shall not affect in any way the meaning or interpretation of this Exchange and Registration Rights Agreement.

(h) *Entire Agreement; Amendments.* This Exchange and Registration Rights Agreement and the other writings referred to herein (including the Indenture and the form of Securities) or delivered pursuant hereto which form a part hereof contain the entire understanding of the parties with respect to its subject matter. This Exchange and Registration Rights Agreement supersedes all prior agreements and understandings between the parties with respect to its subject matter. This Exchange and Registration Rights Agreement may be amended and the observance of any term of this Exchange and Registration Rights Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a written instrument duly executed by the Company and the holders of at least a majority in aggregate principal amount of the Registrable Securities at the time outstanding. Each holder of any Registrable Securities at the time or thereafter outstanding shall be bound by any amendment or waiver effected pursuant to this Section 9(h), whether or not any notice, writing or marking indicating such amendment or waiver appears on such Registrable Securities or is delivered to such holder.

(i) *Inspection.* For so long as this Exchange and Registration Rights Agreement shall be in effect, this Exchange and Registration Rights Agreement and a complete list of the names and addresses of all the holders of Registrable Securities shall be made available for inspection and copying on any business day by any holder of Registrable Securities for proper purposes only (which shall include any purpose related to the rights of the holders of Registrable Securities under the Securities, the Indenture and this Agreement) at the offices of the Company at the address thereof set forth in Section 9(c) above and at the office of the Trustee under the Indenture.

(j) *Counterparts.* This agreement may be executed by the parties in separate counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall

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together constitute one and the same instrument.

[SIGNATURE PAGES FOLLOW]

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If the foregoing is in accordance with your understanding, please sign and return to us eight counterparts hereof, and upon the acceptance hereof by you, on behalf of each of the Purchasers, this letter and such acceptance hereof shall constitute a binding agreement among each of the Purchasers, the Subsidiary Guarantors and the Company. It is understood that your acceptance of this letter on behalf of each of the Purchasers is pursuant to the authority set forth in a form of Agreement among Purchasers, the form of which shall be submitted to the Company for examination upon request, but without warranty on your part as to the authority of the signers thereof.

Very truly yours,

Asbury Automotive Group, Inc.

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Chief Financial Officer

Asbury Automotive South, L.L.C.  
Asbury Automotive West, L.L.C.  
Asbury Automotive Southern California L.L.C.  
Asbury Arkansas Hund L.L.C.  
Asbury AR Niss L.L.C .  
Asbury Automotive Arkansas Dealership Holdings L.L.C.  
Asbury Automotive Arkansas L.L.C.  
Asbury MS Gray-Daniels L.L.C.  
Asbury MS Metro L.L.C.  
Escude-M L.L.C.  
Escude-MO L.L.C.  
Escude-NN L.L.C.  
Escude-NS L.L.C.  
Escude-T L.L.C.  
NP FLM L.L.C.  
NP MZD L.L.C.  
NP VKW L.L.C.  
Premier NSN L.L.C.  
Premier Pon L.L.C.  
Prestige Bay L.L.C.  
Prestige Toy L.L.C.  
Asbury Atlanta AC L.L.C.  
Asbury Atlanta AU L.L.C.  
Asbury Atlanta BM L.L.C.  
Asbury Atlanta Chevrolet L.L.C.  
Asbury Atlanta Hon L.L.C.  
Asbury Atlanta Infiniti L.L.C.  
Asbury Atlanta Jaguar L.L.C.

Asbury Atlanta Lex L.L.C.  
Asbury Atlanta VL L.L.C.  
Asbury Automotive Atlanta L.L.C.  
Atlanta Real Estate Holdings L.L.C.  
Spectrum Insurance Services L.L.C.  
Asbury Automotive Fresno L.L.C.  
Asbury Fresno Imports L.L.C.  
AF Motors, L.L.C.  
ALM Motors, L.L.C.  
ANL, L.P. (by its general partner Asbury Jax Management L.L.C.)  
Asbury Automotive Central Florida, L.L.C.  
Asbury Automotive Deland, L.L.C.  
Asbury Automotive Florida, L.L.C.  
Asbury Automotive Jacksonville GP L.L.C.  
Asbury Automotive Jacksonville, L.P. (by its general partner Asbury Automotive Jacksonville GP L.L.C.)  
Asbury Deland Imports 2, L.L.C.  
Asbury Jax AC L.L.C.  
Asbury Jax Holdings, L.P. (by its general partner Asbury Jax Management L.L.C.)  
Asbury Jax K L.L.C.  
Asbury Jax Management L.L.C.  
Asbury Jax PB Chev L.L.C.  
Asbury-Deland Imports, L.L.C.  
Avenues Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
Bayway Financial Services, L.P. (by its general partner Asbury Jax Management L.L.C.)  
BFP Motors L.L.C.  
C&O Properties, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
CFP Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
CH Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
CHO Partnership, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
CK Chevrolet L.L.C.  
CK Motors LLC  
CN Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)  
Coggin Automotive Corp.  
Coggin Cars L.L.C.  
Coggin Chevrolet L.L.C.  
Coggin Management, L.P. (by its general partner Asbury Jax Management L.L.C.)  
CP-GMC Motors, Ltd. (by its general partner Asbury Jax Management L.L.C.)

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CSA Imports L.L.C.  
 HFP Motors L.L.C.  
 KP Motors L.L.C.  
 Asbury MS Chev, L.L.C.  
 Asbury Automotive Mississippi, L.L.C.  
 Asbury MS Wimber L.L.C.  
 Asbury MS Yazoo L.L.C.  
 Asbury No Cal Niss L.L.C.  
 Asbury Sacramento Imports L.L.C.  
 Asbury So Cal DC L.L.C.  
 Asbury So Cal Hon L.L.C.  
 Asbury So Cal Niss L.L.C.  
 Asbury Automotive North Carolina Dealership Holdings L.L.C.  
 Asbury Automotive North Carolina L.L.C.  
 Asbury Automotive North Carolina Management L.L.C.  
 Asbury Automotive North Carolina Real Estate Holdings L.L.C.  
 Camco Finance II L.L.C.  
 Camco Finance L.L.C.  
 Crown Acura/Nissan, LLC  
 Crown Battleground, LLC  
 Crown CHH L.L.C.  
 Crown CHO L.L.C.  
 Crown CHV L.L.C.  
 Crown Dodge, LLC  
 Crown FDO L.L.C.  
 Crown FFO Holdings L.L.C.  
 Crown FFO L.L.C.  
 Crown Fordham L.L.C.  
 Crown GAC L.L.C.  
 Crown GAU L.L.C.  
 Crown GBM L.L.C.  
 Crown GCA L.L.C.  
 Crown GCH L.L.C.  
 Crown GDO L.L.C.  
 Crown GH0 L.L.C.  
 Crown GKI L.L.C.  
 Crown GMI L.L.C.  
 Crown GNI L.L.C.  
 Crown GPG L.L.C.  
 Crown GVO L.L.C.  
 Crown Honda, LLC  
 Crown Honda-Volvo, LLC  
 Crown Mitsubishi, LLC  
 Crown Motorcar Company L.L.C.  
 Crown Raleigh L.L.C.  
 Crown RIA L.L.C.  
 Crown RIB L.L.C.

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Crown Royal Pontiac, LLC  
 Crown SJC L.L.C.  
 Crown SNI L.L.C.  
 RER Properties, LLC  
 RWIJ Properties, LLC  
 Asbury Automotive Oregon L.L.C.  
 Asbury Automotive Oregon Management L.L.C.  
 Thomason Frd L.L.C.  
 Thomason Auto Credit Northwest, Inc.  
 Thomason Dam L.L.C.  
 Thomason Hon L.L.C.  
 Thomason Hund L.L.C.  
 Thomason Maz L.L.C.  
 Thomason Niss L.L.C.  
 Thomason Outfitters L.L.C.  
 Thomason Pontiac-GMC L.L.C.  
 Thomason Suzu L.L.C.  
 Thomason TY L.L.C.

Thomason Zuk L.L.C.  
Asbury Automotive St. Louis, L.L.C.  
Asbury St. Louis Cadillac L.L.C.  
Asbury St. Louis Lex L.L.C.  
Asbury St. Louis Gen L.L.C.  
Asbury Automotive Brandon, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
Asbury Automotive Tampa GP L.L.C.  
Asbury Automotive Tampa, L.P. (by its general partner Asbury Automotive Tampa GP L.L.C.)  
Asbury Tampa Management L.L.C.  
JC Dealer Systems L.L.C.  
Precision Computer Services, Inc.  
Precision Enterprises Tampa, Inc.  
Precision Infiniti, Inc.  
Precision Motorcars, Inc.  
Precision Nissan, Inc.  
Tampa Hund, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
Tampa Kia, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
Tampa LM, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
Tampa Mit, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
Tampa Suzu, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
WMZ Brandon Motors, L.P. (by its general partner Asbury Tampa Management L.L.C.)

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WMZ Motors, L.P. (by its general partner Asbury Tampa Management L.L.C.)  
WTY Motors L.P. (by its general partner Asbury Tampa Management L.L.C.)  
Asbury Automotive Texas Holdings L.L.C.  
Asbury Automotive Texas L.L.C.  
Asbury Automotive Texas Real Estate Holdings L.P. (by its general partner Asbury Texas Management L.L.C.)  
Asbury Texas Management L.L.C.  
McDavid Auction, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Austin-Acra, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Frisco-Hon, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Grande, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Houston-Hon, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Houston-Kia, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Houston-Niss, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Irving-Hon, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Irving-PB&G, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Irving-Zuk, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Outfitters, L.P. (by its general partner Asbury Texas Management L.L.C.)  
McDavid Plano-Acra, L.P. (by its general partner Asbury Texas Management L.L.C.)  
Plano Lincoln-Mercury, Inc.

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Vice President

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Asbury Automotive Group Holdings, Inc.  
Asbury Automotive Group L.L.C.

By: /s/ J. Gordon Smith  
Name: J. Gordon Smith  
Title: Senior Vice President

By: /s/ Lynne A. Burgess

Name: Lynne A. Burgess  
Title: Vice President and Assistant  
Secretary

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Accepted as of the date hereof:

Goldman, Sachs & Co.  
Deutsche Bank Securities Inc.

By: /s/ Goldman, Sachs & Co.  
(Goldman, Sachs & Co.)

On behalf of each of the Purchasers

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**Exhibit A**

**Asbury Automotive Group, Inc.**

**INSTRUCTION TO DTC PARTICIPANTS**

*(Date of Mailing)*

**URGENT - IMMEDIATE ATTENTION REQUESTED**

**DEADLINE FOR RESPONSE: [DATE].\***

The Depository Trust Company (“DTC”) has identified you as a DTC Participant through which beneficial interests in the Asbury Automotive Group, Inc. (the “Company”) 7.625% Senior Subordinated Notes due 2017 (the “Securities”) are held.

The Company is in the process of registering the Securities under the Securities Act of 1933 for resale by the beneficial owners thereof. In order to have their Securities included in the registration statement, beneficial owners must complete and return the enclosed Notice of Registration Statement and Selling Securityholder Questionnaire.

It is important that beneficial owners of the Securities receive a copy of the enclosed materials as soon as possible as their rights to have the Securities included in the registration statement depend upon their returning the Notice and Questionnaire by **[Deadline For Response]**. Please forward a copy of the enclosed documents to each beneficial owner that holds interests in the Securities through you. If you require more copies of the enclosed materials or have any questions pertaining to this matter, please contact Asbury Automotive Group, Inc., 622 Third Avenue, 37<sup>th</sup> Floor, New York, New York 10017, (212) 885-2500.

**Asbury Automotive Group, Inc.**

Notice of Registration Statement  
and  
Selling Securityholder Questionnaire

(Date)

Reference is hereby made to the Exchange and Registration Rights Agreement (the “Exchange and Registration Rights Agreement”) between Asbury Automotive Group, Inc. (the “Company”) and the Purchasers named therein. Pursuant to the Exchange and Registration Rights Agreement, the Company has filed with the United States Securities and Exchange Commission (the “Commission”) a registration statement on Form [ ] (the “Shelf Registration Statement”) for the registration and resale under Rule 415 of the Securities Act of 1933, as

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\* [Not less than 28 calendar days from date of mailing.]



amended (the “Securities Act”), of the Company’s 7.625% Senior Subordinated Notes due 2017 (the “Securities”). A copy of the Exchange and Registration Rights Agreement is attached hereto. All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Exchange and Registration Rights Agreement.

Each beneficial owner of Registrable Securities (as defined below) is entitled to have the Registrable Securities beneficially owned by it included in the Shelf Registration Statement. In order to have Registrable Securities included in the Shelf Registration Statement, this Notice of Registration Statement and Selling Securityholder Questionnaire (“Notice and Questionnaire”) must be completed, executed and delivered to the Company’s counsel at the address set forth herein for receipt ON OR BEFORE **[Deadline for Response]**. Beneficial owners of Registrable Securities who do not complete, execute and return this Notice and Questionnaire by such date (i) will not be named as selling securityholders in the Shelf Registration Statement and (ii) may not use the Prospectus forming a part thereof for resales of Registrable Securities.

Certain legal consequences arise from being named as a selling securityholder in the Shelf Registration Statement and related Prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling securityholder in the Shelf Registration Statement and related Prospectus.

The term “Registrable Securities” is defined in the Exchange and Registration Rights Agreement.

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## ELECTION

The undersigned holder (the “Selling Securityholder”) of Registrable Securities hereby elects to include in the Shelf Registration Statement the Registrable Securities beneficially owned by it and listed below in Item (3). The undersigned, by signing and returning this Notice and Questionnaire, agrees to be bound with respect to such Registrable Securities by the terms and conditions of this Notice and Questionnaire and the Exchange and Registration Rights Agreement, including, without limitation, Section 6 of the Exchange and Registration Rights Agreement, as if the undersigned Selling Securityholder were an original party thereto.

Upon any sale of Registrable Securities pursuant to the Shelf Registration Statement, the Selling Securityholder will be required to deliver to the Company and Trustee the Notice of Transfer set forth in Appendix A to the Prospectus and as Exhibit B to the Exchange and Registration Rights Agreement.

The Selling Securityholder hereby provides the following information to the Company and represents and warrants that such information is accurate and complete:

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## QUESTIONNAIRE

- (1) (a) Full Legal Name of Selling Securityholder:
- (b) Full Legal Name of Registered Holder (if not the same as in (a) above) of Registrable Securities Listed in Item (3) below:
- (c) Full Legal Name of DTC Participant (if applicable and if not the same as (b) above) Through Which Registrable Securities Listed in Item (3) below are Held:
- (2) Address for Notices to Selling Securityholder:
- Telephone:
- Fax:
- Contact Person:
- (3) Beneficial Ownership of Securities:
- Except as set forth below in this Item (3), the undersigned does not beneficially own any Securities.*
- (a) Principal amount of Registrable Securities beneficially owned:  
CUSIP No(s). of such Registrable Securities:
- (b) Principal amount of Securities other than Registrable Securities beneficially owned:  
  
CUSIP No(s). of such other Securities:
- (c) Principal amount of Registrable Securities which the undersigned wishes to be included in the Shelf Registration Statement:  
CUSIP No(s). of such Registrable Securities to be included in the Shelf Registration Statement: \_
- (4) Beneficial Ownership of Other Securities of the Company:

*Except as set forth below in this Item (4), the undersigned Selling Securityholder is not the beneficial or registered owner of any other securities of the Company, other than the Securities listed above in Item (3).*

State any exceptions here:

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(5) Relationships with the Company:

*Except as set forth below, neither the Selling Securityholder nor any of its affiliates, officers, directors or principal equity holders (5% or more) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.*

State any exceptions here:

(6) Plan of Distribution:

*Except as set forth below, the undersigned Selling Securityholder intends to distribute the Registrable Securities listed above in Item (3) only as follows (if at all): Such Registrable Securities may be sold from time to time directly by the undersigned Selling Securityholder or, alternatively, through underwriters, broker-dealers or agents. Such Registrable Securities may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of sale, at varying prices determined at the time of sale, or at negotiated prices. Such sales may be effected in transactions (which may involve crosses or block transactions) (i) on any national securities exchange or quotation service on which the Registered Securities may be listed or quoted at the time of sale, (ii) in the over-the-counter market, (iii) in transactions otherwise than on such exchanges or services or in the over-the-counter market, or (iv) through the writing of options. In connection with sales of the Registrable Securities or otherwise, the Selling Securityholder may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the Registrable Securities in the course of hedging the positions they assume. The Selling Securityholder may also sell Registrable Securities short and deliver Registrable Securities to close out such short positions, or loan or pledge Registrable Securities to broker-dealers that in turn may sell such securities.*

State any exceptions here:

By signing below, the Selling Securityholder acknowledges that it understands its obligation to comply, and agrees that it will comply, with the provisions of the Exchange Act and the rules and regulations thereunder, particularly Regulation M.

In the event that the Selling Securityholder transfers all or any portion of the Registrable Securities listed in Item (3) above after the date on which such information is provided to the Company, the Selling Securityholder agrees to notify the transferee(s) at the time of the transfer of its rights and obligations under this Notice and Questionnaire and the Exchange and Registration Rights Agreement.

By signing below, the Selling Securityholder consents to the disclosure of the information contained herein in its answers to Items (1) through (6) above and the inclusion of such information in the Shelf Registration Statement and related Prospectus. The Selling Securityholder understands that such information will be relied upon by the Company in connection with the preparation of the Shelf Registration Statement and related Prospectus.

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In accordance with the Selling Securityholder's obligation under Section 3(d) of the Exchange and Registration Rights Agreement to provide such information as may be required by law for inclusion in the Shelf Registration Statement, the Selling Securityholder agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein which may occur subsequent to the date hereof at any time while the Shelf Registration Statement remains in effect. All notices hereunder and pursuant to the Exchange and Registration Rights Agreement shall be made in writing, by hand-delivery, first-class mail, or air courier guaranteeing overnight delivery as follows:

(i) To the Company and the Subsidiary Guarantors:

Asbury Automotive Group Inc.  
622 Third Avenue, 37<sup>th</sup> Floor  
New York, New York 10017  
Attention: Secretary

(ii) With a copy to:

Cravath, Swaine & Moore LLP  
825 Eighth Avenue  
New York, NY 10019  
Attention: Thomas E. Dunn

Once this Notice and Questionnaire is executed by the Selling Securityholder and received by the Company's counsel, the terms of this Notice and Questionnaire, and the representations and warranties contained herein, shall be binding on, shall inure to the benefit of and shall be enforceable by the respective successors, heirs, personal representatives, and assigns of the Company and the Selling Securityholder (with respect to the Registrable Securities beneficially owned by such Selling Securityholder and listed in Item (3) above. This Agreement shall be governed in all respects by the laws of the State of New York.

IN WITNESS WHEREOF, the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Selling Securityholder  
(Print/type full legal name of beneficial owner of Registrable Securities)

By: \_\_\_\_\_  
Name:  
Title:

PLEASE RETURN THE COMPLETED AND EXECUTED NOTICE AND QUESTIONNAIRE FOR RECEIPT ON OR BEFORE **[DEADLINE FOR RESPONSE]** TO THE COMPANY'S COUNSEL AT:

Cravath, Swaine & Moore LLP  
825 Eighth Avenue  
New York, NY 10019  
Attention: Thomas E. Dunn

# NOTICE OF TRANSFER PURSUANT TO REGISTRATION STATEMENT

The Bank of New York  
Asbury Automotive Group, Inc.  
c/o The Bank of New York  
101 Barclay Street  
New York, NY 10286

Attention: Trust Officer

Re: Asbury Automotive Group, Inc. (the "Company")  
7.625% Senior Subordinated Notes due 2017

Dear Sirs:

Please be advised that \_\_\_\_\_ has transferred \$ \_\_\_\_\_ aggregate principal amount of the above-referenced Notes pursuant to an effective Registration Statement on Form [ ] (File No. 333- ) filed by the Company.

We hereby certify that the prospectus delivery requirements, if any, of the Securities Act of 1933, as amended, have been satisfied and that the above-named beneficial owner of the Notes is named as a "Selling Holder" in the Prospectus dated [ ], 20[ ] or in supplements thereto, and that the aggregate principal amount of the Notes transferred are the Notes listed in such Prospectus opposite such owner's name.

Dated:

Very truly yours,

\_\_\_\_\_  
(Name)

By: \_\_\_\_\_  
(Authorized Signature)

AMENDMENT, dated as of February 1, 2007 (this "Amendment"), to the Severance Pay Agreement for Key Employee between Asbury Automotive Group, Inc. ("Company") and Charlie Tomm ("Executive"), dated as of April 1, 2005 (the "Severance Pay Agreement").

WHEREAS Company and Executive entered into the Severance Pay Agreement, effective as of April 1, 2005

WHEREAS Company and Executive desire to decrease Executive's annual base salary and increase Executive's annual bonus such that Executive's target annual compensation will increase; and

WHEREAS Company and Executive desire to set the amount of severance pay available to Executive under the Severance Pay Agreement such that the severance pay will be based on the annual base salary that was in effect for Executive on December 31, 2006.

NOW, THEREFORE, be it resolved that:

1. Executive hereby agrees and consents that (a) Executive's annual base salary for 2007 shall be \$400,000 and (b) such changes to Executive's annual base salary and bonus shall not constitute or give rise to a "Termination" for purposes of the Severance Pay Agreement.

2. The first sentence of the first paragraph of Section 1 of the Severance Pay Agreement is hereby deleted in its entirety and replaced with the following:

"If a Termination (as defined below) of Executive's employment occurs at any time during Executive's employment, except as provided herein, Asbury will pay Executive Severance Pay based upon Executive's base salary in effect on December 31, 2006.

3. This Amendment shall be governed by the laws of the state of Florida.

Intending to be legally bound hereby, the parties have executed this Amendment on the dates set forth next to their names below.

February 2, 2007

ASBURY AUTOMOTIVE GROUP, INC.,

By /s/ Philip R. Johnson  
Philip R. Johnson

February 8, 2007

Charlie Tomm,

By /s/ Charlie Tomm  
Charlie Tomm

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May 8, 2007  
Asbury Automotive Group, Inc.  
622 Third Avenue  
New York, New York

We have made a review, in accordance with the standards of the Public Company Accounting Oversight Board (United States), of the unaudited interim financial information of Asbury Automotive Group, Inc and subsidiaries for the periods ended March 31, 2007 and 2006, as indicated in our report dated May 8, 2006; because we did not perform an audit, we expressed no opinion on that information.

We are aware that our report referred to above, which is included in your Quarterly Report on Form 10-Q for the quarter ended March 31, 2007, is incorporated by reference in Registration Statement Nos. 333-105450, 333-84646 and 333-115402 on Form S-8 and 333-123505 on Form S-3.

We also are aware that the aforementioned report, pursuant to Rule 436(c) under the Securities Act of 1933, is not considered a part of the Registration Statement prepared or certified by an accountant or a report prepared or certified by an accountant within the meaning of Sections 7 and 11 of that Act.

/s/ Deloitte & Touche LLP  
New York, New York

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**CERTIFICATION PURSUANT TO  
 RULE 13a-14(a)/15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934  
 AS ADOPTED PURSUANT TO  
 SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Charles R. Oglesby, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Asbury Automotive Group, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and we have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ CHARLES R. OGLESBY

Charles R. Oglesby  
 Chief Executive Officer  
 May 8, 2007

**CERTIFICATION PURSUANT TO  
 RULE 13a-14(a)/15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934  
 AS ADOPTED PURSUANT TO  
 SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, J. Gordon Smith, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Asbury Automotive Group, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and we have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ J. GORDON SMITH

J. Gordon Smith  
 Chief Financial Officer  
 May 8, 2007

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Asbury Automotive Group, Inc. (the "Company") on Form 10-Q for the quarter ended March 31, 2007 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Charles R. Oglesby, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ CHARLES R. OGLESBY

Charles R. Oglesby  
Chief Executive Officer  
May 8, 2007

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**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Asbury Automotive Group, Inc. (the "Company") on Form 10-Q for the quarter ended March 31, 2007 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, J. Gordon Smith, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ J. GORDON SMITH

J. Gordon Smith

Chief Financial Officer

May 8, 2007

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