



M E R C E R

# MERCER INTERNATIONAL INC.

## OFFER TO PURCHASE AND CONSENT SOLICITATION STATEMENT

### Offer to Purchase and Consent Solicitation Statement

### Relating to Any and All of the \$310 million 9.25% Senior Notes due 2013 Listed Below Issued by Mercer International Inc.

The Offer (as defined below) will expire at 11:59 p.m., New York City time, on December 1, 2010, unless extended or earlier terminated by the Company (as defined below) in its sole discretion (such time, as the same may be extended, the “Expiration Time”). Registered holders of the 9.25% Senior Notes due 2013 (the “Notes”) (each such holder of the Notes, a “Holder”) must validly tender their Notes before the Expiration Time to be eligible to receive the applicable consideration (as described below). **To be eligible to receive the Total Consideration (as defined below), which includes the Consent Payment (as defined below), Holders must tender their Notes and Consents (as defined below) before 5:00 p.m., New York City time, on November 16, 2010, unless extended or earlier terminated by the Company in its sole discretion (such time, as the same may be extended, the “Consent Date”).** Tendered Notes may be withdrawn and Consents may be revoked in accordance with the terms of the Offer prior to 5:00 p.m., New York City time, on November 16, 2010, but not thereafter, other than as required by applicable law, unless such time is extended by the Company in its sole discretion (such time, as the same may be extended, the “Withdrawal Deadline”). The Offer and the Solicitation (as defined below) are subject to the satisfaction of the conditions set forth in this Offer to Purchase and Consent Solicitation Statement under the heading “Terms of the Offer and the Solicitation — Conditions to the Offer and the Solicitation.”

#### The Offer

**Mercer International Inc.**, a Washington corporation (“we,” “us” or the “Company”), and the issuer of the Notes, hereby offers to purchase for cash (the “Offer”) any and all of the Notes listed in the table below for the consideration described below, upon the terms and subject to the conditions set forth in this Offer to Purchase and Consent Solicitation Statement (as it may be amended or supplemented from time to time, this “Statement”) and in the related Letter of Transmittal and Consent (as it may be amended or supplemented from time to time, the “Letter of Transmittal”).

<u>Notes</u>	<u>CUSIP Number</u>	<u>Principal Amount Outstanding</u>	<u>Tender Offer Consideration<sup>(1)</sup></u>	<u>Consent Payment<sup>(2)</sup></u>	<u>Total Consideration<sup>(1)</sup></u>
9.25% Senior Notes due 2013 . . . . .	588056AH4	\$310,000,000	\$993.13	\$30.00	\$1,023.13

(1) Per \$1,000 principal amount of Notes and excluding accrued and unpaid interest, which will be paid in addition to the Total Consideration or Tender Offer Consideration, as applicable.

(2) Per \$1,000 principal amount of Notes tendered prior to the Consent Date.

*The Dealer Manager and Solicitation Agent for the Offer and the Solicitation is:*

**RBC Capital Markets**

November 2, 2010

## The Solicitation of Consents

Concurrently with the Offer, the Company is soliciting (the "Solicitation") from the Holders a consent (the "Consent") to certain proposed amendments (the "Proposed Amendments"), including eliminating substantially all of the restrictive covenants to the indenture between the Company and Wells Fargo Bank, National Association, as trustee (the "Trustee") dated December 10, 2004 (the "Base Indenture"), as amended by a first supplemental indenture (the "Supplemental Indenture") dated as of February 14, 2005 (collectively, the "Indenture").

The execution and delivery of a Letter of Transmittal by a Holder tendering Notes pursuant to the Offer will constitute the Consent of such Holder to the Proposed Amendments. Holders may not tender their Notes without delivering their Consents pursuant to the Solicitation and may not deliver their Consents without tendering their Notes pursuant to the Offer. The Proposed Amendments require the Consent of Holders of a majority in aggregate principal amount (the "Requisite Consents") of the outstanding Notes. The Proposed Amendments, if they become effective, may have adverse consequences for Holders that do not tender their Notes in the Offer.

## Early Participation Payments; Consideration; Settlement

The total consideration for each \$1,000 principal amount of Notes validly tendered prior to the Consent Date and accepted for purchase pursuant to the Offer shall be \$1,023.13 (the "Total Consideration"). The Total Consideration includes a consent payment of \$30.00 per \$1,000 principal amount of Notes (the "Consent Payment").

Holders must validly tender and not validly withdraw their Notes at or prior to the Consent Date in order to be eligible to receive the Total Consideration (including the Consent Payment) with respect to Notes accepted for purchase by the Company, payable on the Early Settlement Date (as defined below). The Total Consideration minus the Consent Payment is referred to herein as the "Tender Offer Consideration." Holders validly tendering their Notes after the Consent Date and at or prior to the Expiration Time will only be eligible to receive the Tender Offer Consideration with respect to Notes accepted for purchase by the Company, payable on the Final Settlement Date (as defined below).

The "Settlement Date" in respect of any Notes that are validly tendered and not validly withdrawn at or prior to the Consent Date, and accepted by the Company for purchase in the Offer, will be promptly after the Consent Date, but prior to the Expiration Time (the "Early Settlement Date"), and is expected to be on or about November 18, 2010. The "Settlement Date" in respect of any Notes that are validly tendered after the Consent Date, but at or prior to the Expiration Time, and accepted by the Company for purchase in the Offer, will be promptly after the Expiration Time (the "Final Settlement Date"), and is expected to be on or about December 2, 2010, one business day following the Expiration Time. No tenders of Notes submitted after the Expiration Time will be valid.

The Offer or the Solicitation may be amended, extended or terminated, and any condition with respect thereto may be modified or waived by the Company, separately, and Notes validly tendered and not validly withdrawn may be separately accepted for payment at any time after the Consent Date.

---

The sale of a Note pursuant to the Offer will be a taxable transaction for U.S. federal income tax purposes. See "Certain U.S. Federal Income Tax Considerations."

**THIS STATEMENT AND THE LETTER OF TRANSMITTAL SHOULD BE READ CAREFULLY BEFORE A DECISION IS MADE WITH RESPECT TO THE OFFER AND THE SOLICITATION. NONE OF THE COMPANY, THE DEALER MANAGER AND SOLICITATION AGENT, THE INFORMATION AGENT, THE DEPOSITARY OR THE TRUSTEE MAKES ANY RECOMMENDATION AS TO WHETHER OR NOT HOLDERS SHOULD TENDER THEIR NOTES OR DELIVER CONSENTS IN CONNECTION WITH THE OFFER OR THE SOLICITATION.**

**NEITHER THIS STATEMENT NOR ANY OF THE OTHER DOCUMENTS RELATING TO THE OFFER OR THE SOLICITATION HAVE BEEN FILED WITH OR REVIEWED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY OF ANY COUNTRY, NOR HAS ANY SUCH COMMISSION OR AUTHORITY PASSED UPON THE ACCURACY OR ADEQUACY OF THIS STATEMENT OR ANY OF THE OTHER DOCUMENTS RELATING TO THE OFFER OR THE SOLICITATION. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL AND MAY BE A CRIMINAL OFFENSE.**

Notwithstanding any other provision of the Offer, the Company's obligations to accept for payment, and to pay the Total Consideration or the Tender Offer Consideration, as applicable, for Notes validly tendered and not validly withdrawn pursuant to the Offer are subject to, and conditioned upon, the satisfaction of, or the Company's waiver of, the conditions set forth below:

- receipt of the Requisite Consents to the Proposed Amendments and execution of a second supplemental indenture (the "Second Supplemental Indenture") by the Company and the Trustee (the "Requisite Consent Condition");
- the issuance by the Company, on or prior to the Early Settlement Date, of a minimum of \$300 million aggregate principal amount of new debt (the "New Debt") of the Company (the "Debt Offering"), on terms and conditions satisfactory to the Company (the "Financing Condition"); and
- the other conditions described in the section of this Statement entitled "Terms of the Offer and the Solicitation — Conditions to the Offer and the Solicitation" (the "General Conditions").

The conditions to the Offer are for the sole benefit of the Company and may be asserted by the Company, regardless of the circumstances giving rise to any such condition (including any action or inaction by the Company). The Company reserves the right, in its sole discretion, to waive or modify any one or more of the conditions to the Offer, in whole or in part, at any time. See "Terms of the Offer and the Solicitation — Conditions to the Offer and the Solicitation."

Tenders of Notes pursuant to the Offer may be validly withdrawn and Consents delivered pursuant to the Solicitation may be validly revoked at any time on or prior to the Withdrawal Deadline by following the procedures described herein under the caption "Terms of the Offer and the Solicitation — Withdrawal of Tenders and Revocation of Consents." **The Company may extend or otherwise amend the Consent Date or the Expiration Time without extending the Withdrawal Deadline or otherwise reinstating withdrawal rights of Holders.** A Holder may not validly revoke a Consent unless such Holder validly withdraws such Holder's previously tendered Notes. Any Notes tendered prior to the Withdrawal Deadline that are not validly withdrawn prior to the Withdrawal Deadline may not be withdrawn thereafter except as required by applicable law. Any Notes tendered after the Withdrawal Deadline may not be withdrawn except as required by applicable law. A valid withdrawal of tendered Notes on or prior to the Withdrawal Deadline shall be deemed a valid revocation of the related Consent.

Subject to the satisfaction of the Requisite Consent Condition, the Financing Condition and the other terms and conditions set forth in this Statement and the Letter of Transmittal, the aggregate Total Consideration or the aggregate Tender Offer Consideration, as applicable, to which a tendering Holder is entitled pursuant to the Offer, will be paid on the Early Settlement Date or the Final Settlement Date, as applicable. Under no circumstances will any interest on the Total Consideration or the Tender Offer Consideration be payable because of any delay in the transmission of funds to Holders by the Depository (as defined below) or The Depository Trust Company ("DTC").

Georgeson Inc. is acting as the information agent (the "Information Agent") and Wells Fargo Bank, National Association is acting as the depository (the "Depository") for the Offer. Any questions regarding the terms of the Offer and the Solicitation should be directed to RBC Capital Markets, LLC (the "Dealer Manager and Solicitation Agent"), and requests for additional copies of this Statement, the Letter of Transmittal or the related documents (the "Offer Documents") should be directed to the Information Agent, at the addresses and telephone numbers set forth on the back cover page of this Statement.

#### **Redemption of Untendered or Unpurchased Notes**

The Company reserves the right to redeem any Notes that remain outstanding following the completion of the Offer at its own discretion in accordance with the terms of the Notes and the Indenture.

## Important Dates

Holders should note the following times relating to the Offer:

<u>Date</u>	<u>Calendar Date</u>	<u>Event</u>
Launch Date . . . . .	November 2, 2010	Commencement of the Offer and the Solicitation
Consent Date . . . . .	5:00 p.m., New York City time, on November 16, 2010, unless extended or earlier terminated by the Company in its sole discretion.	The deadline for Holders to tender Notes and deliver consents in order to be eligible to receive the applicable Total Consideration, which includes the Consent Payment, on the Early Settlement Date.
Withdrawal Deadline . . . . .	5:00 p.m., New York City time, on November 16, 2010, unless extended or earlier terminated by the Company in its sole discretion or as otherwise required by applicable law.	The deadline for Holders to withdraw any tendered Notes or revoke any delivered Consents.
Early Settlement Date . . . . .	Promptly after the Consent Date, but prior to the Expiration Time. The Company expects that this date will be on or about November 18, 2010, unless the Consent Date is extended by the Company in its sole discretion.	The day that the Company deposits with the Depository or upon the Depository's instructions, DTC, the Total Consideration for any Notes that were validly tendered and not withdrawn at or prior to the Consent Date and accepted for payment, plus, in each case, accrued and unpaid interest from and including the last interest payment date for the Notes to, but not including, the Early Settlement Date.
Expiration Time . . . . .	11:59 p.m., New York City time, on December 1, 2010, unless extended or earlier terminated by the Company in its sole discretion.	The deadline for Holders to tender Notes pursuant to the Offer and deliver Consents pursuant to the Solicitation and be eligible to receive the Tender Offer Consideration.
Final Settlement Date . . . . .	Promptly after the Expiration Time. The Company expects that this date will be on or about December 2, 2010, one business day following the Expiration Time, unless the Offer is extended by the Company in its sole discretion.	The day that the Company deposits with the Depository or upon the Depository's instructions, DTC, the Tender Offer Consideration for any Notes that were validly tendered following Consent Date and prior to the Expiration Time, plus accrued and unpaid interest from and including the last interest payment date for the Notes to, but not including, the Final Settlement Date.

Subject to applicable securities laws and the terms set forth in this Statement, the Company reserves the right (i) to waive or modify in whole or in part any and all conditions to the Offer and the Solicitation, (ii) to extend the Consent Date, the Expiration Time or the Withdrawal Deadline, (iii) to modify or terminate the Offer and/or the Solicitation, (iv) to delay the acceptance for purchase of any Notes or delay the purchase of any Notes, or (v) otherwise to amend the Offer and/or the Solicitation in any respect. In the event that the Offer and/or Solicitation is terminated or otherwise not completed, the Total Consideration or Tender Offer Consideration, as the case may be, relating to the Notes, will not be paid or become payable to Holders of such Notes, without regard to whether such Holders have validly tendered their Notes (in which case such tendered Notes will be promptly returned to the Holders).

## IMPORTANT

To effectively tender Notes and deliver Consents in respect of Notes as to which the Holder is a custodian bank, depository, broker, trust company or other nominee (each, a “Nominee”), the beneficial owner of those Notes must instruct the Holder to tender such Notes and deliver such Consents on behalf of the beneficial owner. See “Terms of the Offer and the Solicitation — Procedure for Tendering Notes.”

DTC has authorized DTC participants that hold Notes on behalf of beneficial owners of Notes through DTC to tender their Notes and deliver Consents as if they were Holders. To effect a tender of Notes and a delivery of Consents, if applicable, DTC participants may, in lieu of physically completing and signing the Letter of Transmittal, transmit their acceptance to DTC (which will also constitute deliveries of Consents, if applicable) through the DTC Automated Tender Offer Program (“ATOP”). To effect such a tender and a delivery of Consents, if applicable, participants should transmit their acceptance through ATOP and follow the procedure for book-entry transfer set forth under “Terms of the Offer and the Solicitation — Procedure for Tendering Notes.” Neither Holders nor beneficial owners of tendered Notes will be obligated to pay brokerage fees or commissions to the Dealer Manager and Solicitation Agent, the Depository, the Information Agent or the Company.

Questions and requests for assistance may be directed to the Dealer Manager and Solicitation Agent or the Information Agent at their addresses and telephone numbers set forth on the back cover of this Statement. Additional copies of this Statement and the Letter of Transmittal and other related materials may be obtained from the Information Agent at its address and telephone numbers set forth on the back cover of this Statement. Beneficial owners may also contact their Nominees through which they hold the Notes with questions and requests for assistance.

**The statements made in this Statement are made as of the date on the cover page. The delivery of this Statement and the Letter of Transmittal shall not under any circumstances create any implication that the information contained herein is correct as of a later date or that there has been no change in such information or in the affairs of the Company since such date.**

**The Offer and the Solicitation are not being made to (nor will the surrender of Notes for purchase be accepted from) or on behalf of Holders of Notes in any jurisdiction in which the making or acceptance of the Offer would not be in compliance with the laws of such jurisdiction. In those jurisdictions where the securities, blue sky or other laws require the Offer and/or the Solicitation to be made by a licensed broker or dealer, the Offer and the Solicitation will be deemed to be made on behalf of the Company by the Dealer Manager and Solicitation Agent or one or more registered brokers or dealers licensed under the laws of such jurisdiction.**

**No dealer, salesperson or other person has been authorized to give any information or to make any representation not contained in this Statement or the Letter of Transmittal and, if given or made, such information or representation may not be relied upon as having been authorized by the Company or the Dealer Manager and Solicitation Agent.**

**None of the Company, its board of directors, the Trustee, the Information Agent, the Depository, the Dealer Manager and Solicitation Agent or any of their respective affiliates makes any recommendation as to whether Holders should tender, or refrain from tendering, all or any portion of the principal amount of their Notes pursuant to the Offer or deliver, or refrain from delivering, Consents pursuant to the Solicitation. Each Holder must make its own decision as to whether to tender its Notes pursuant to the Offer and/or deliver its Consent pursuant to the Solicitation and, if so, the principal amount of the Notes to tender.**

## TABLE OF CONTENTS

SUMMARY . . . . .	1
AVAILABLE INFORMATION . . . . .	5
DOCUMENTS INCORPORATED BY REFERENCE . . . . .	5
CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS . . . . .	5
MERCER INTERNATIONAL INC. . . . .	6
PURPOSE OF THE OFFER AND THE SOLICITATION . . . . .	6
SOURCE OF FUNDS . . . . .	6
TERMS OF THE OFFER AND THE SOLICITATION . . . . .	6
General . . . . .	6
Acceptance for Payment and Payment for Notes . . . . .	8
Procedure for Tendering Notes . . . . .	9
Withdrawal of Tenders and Revocation of Consents . . . . .	11
Conditions to the Offer and the Solicitation . . . . .	12
No Recommendation . . . . .	13
No Appraisal Rights . . . . .	13
CERTAIN SIGNIFICANT CONSIDERATIONS . . . . .	13
Effects of the Proposed Amendments . . . . .	13
Limited Trading Market; Reduced Liquidity as a Result of the Offer and the Solicitation . . . . .	14
Redemption . . . . .	14
Conditions to the Closing of the Offer and the Solicitation . . . . .	14
Withdrawal Rights . . . . .	14
PROPOSED AMENDMENTS TO THE INDENTURE . . . . .	14
CERTAIN U.S. FEDERAL INCOME TAX CONSIDERATIONS . . . . .	16
DEALER MANAGER AND SOLICITATION AGENT; INFORMATION AGENT; DEPOSITARY . . . . .	20
MISCELLANEOUS . . . . .	21

## SUMMARY

*This Statement and the Letter of Transmittal contain important information that should be read carefully before any decision is made with respect to the Offer or the Solicitation.*

*The following summary is provided solely for the convenience of Holders. This summary is not intended to be complete and is qualified in its entirety by reference to the full text and more specific details contained elsewhere in this Statement, the Letter of Transmittal and any amendments or supplements hereto or thereto. Holders are urged to read this Statement and the Letter of Transmittal in their entirety. Each of the capitalized terms used but not defined in this summary has the meaning set forth elsewhere in this Statement.*

If you have questions, please call the Information Agent or the Dealer Manager and Solicitation Agent at their respective telephone numbers on the back cover of this Statement.

The Company . . . . .	<b>Mercer International Inc.</b> , a Washington corporation, which is the issuer of the Notes (“we,” “us” or the “Company”)
Notes . . . . .	\$310,000,000 in aggregate principal amount of 9.25% Senior Notes due 2013 (CUSIP No. 588056AH4) of the Company
The Offer . . . . .	The Company is offering to purchase for cash, upon the terms and subject to the conditions set forth in this Statement and in the Letter of Transmittal, any and all of the outstanding Notes validly tendered but not validly withdrawn, at or prior to the Consent Date or the Expiration Time, as applicable, and accepted for purchase by the Company. See “Terms of the Offer and the Solicitation.”
The Solicitation . . . . .	<p>The Company is also soliciting Consents from Holders to the Proposed Amendments. Holders that validly deliver (and do not revoke) their Consents pursuant to the Solicitation on or prior to the Consent Date will be eligible to receive the Total Consideration.</p> <p>The Total Consideration includes the Consent Payment, which will be paid to each Holder who validly delivers (and does not revoke) a Consent to the Proposed Amendments on or prior to the Consent Date, subject to satisfaction of the Requisite Consent Condition, the Financing Condition and the other conditions set forth in this Statement and in the Letter of Transmittal.</p> <p>The execution and delivery of a Letter of Transmittal (or in accordance with DTC’s ATOP procedures) by a Holder tendering Notes pursuant to the Offer will constitute the Consent of such Holder to the Proposed Amendments to the Indenture. Holders may not tender their Notes without delivering their Consent pursuant to the Solicitation and may not deliver a Consent without tendering their Notes pursuant to the Offer.</p> <p>The Proposed Amendments would eliminate substantially all of the restrictive covenants and certain events of default in the Indenture. See “Proposed Amendments to the Indenture.”</p>
Consent Date . . . . .	5:00 p.m., New York City time, on November 16, 2010, unless extended or earlier terminated by the Company. The Company retains the right to extend the Consent Date in its sole discretion.
Withdrawal Deadline . . . . .	5:00 p.m., New York City time, on November 16, 2010, unless extended or earlier terminated by the Company. The Company retains the right to extend the Withdrawal Deadline in its sole discretion or as otherwise required by applicable law.
Expiration Time . . . . .	11:59 p.m., New York City time, on December 1, 2010, unless extended or earlier terminated by the Company. The Company retains the right to extend the Offer and/or Solicitation for any reason.

Total Consideration . . . . .	The Total Consideration for the Notes shall be \$1,023.13 per \$1,000 principal amount of Notes, which includes the Consent Payment.
Consent Payment . . . . .	\$30.00 per \$1,000 principal amount of Notes tendered prior to the Consent Date, which amount is included in the Total Consideration. The Consent Payment will be paid only with respect to Notes validly tendered and not validly withdrawn prior to the Consent Date.
Tender Offer Consideration . . . . .	The Tender Offer Consideration for the Notes shall be \$993.13 per \$1,000 principal amount of Notes, which equals the Total Consideration minus the Consent Payment.
Accrued Interest . . . . .	The Total Consideration or the Tender Offer Consideration, as applicable, for the Notes will be paid together with accrued and unpaid interest from and including the last interest payment date for the Notes to, but not including, the applicable Settlement Date.
Early Settlement Date . . . . .	The Early Settlement Date in respect of the Notes that are validly tendered and not validly withdrawn at or prior to the Consent Date and accepted for payment will be promptly after the Consent Date, but prior to the Expiration Time, and is expected to be on or about November 18, 2010, unless the Consent Date is extended by the Company in its sole discretion.
Final Settlement Date . . . . .	The Final Settlement Date in respect of Notes that are validly tendered after the Consent Date, but at or prior to the Expiration Time, and accepted for payment, will be promptly after the Expiration Time, and is expected to be on or about December 2, 2010, one business day following the Expiration Time, unless the Offer is extended by the Company in its sole discretion.
Withdrawal and Revocation Rights . . . . .	Tenders of Notes may be validly withdrawn and Consents may be validly revoked prior to the Withdrawal Deadline by following the procedures described herein. A valid withdrawal of tendered Notes by any Holder will constitute the concurrent valid revocation of such Holder's related Consent, and a valid revocation of a Consent will constitute the concurrent valid withdrawal of such Holder's related tendered Notes. Except to the extent required by applicable law, Notes tendered prior to the Withdrawal Deadline may only be withdrawn, in writing, prior to the Withdrawal Deadline and Notes tendered after the Withdrawal Deadline and prior to the Expiration Time may not be withdrawn. The Company reserves the right to terminate or withdraw the Offer at any time and from time to time subject to applicable law. <b>The Company may extend or otherwise amend the Consent Date or the Expiration Time or waive or modify, in whole or in part, any one or more of the conditions to the Offer without extending the Withdrawal Deadline or otherwise reinstating withdrawal rights of Holders, provided that the Second Supplemental Indenture has been executed.</b> In the event of a termination of the Offer and the Solicitation, all Notes tendered pursuant to the Offer will be promptly returned to the tendering Holders. See "Terms of the Offer and the Solicitation — Withdrawal of Tenders and Revocation of Consents."
Untendered or Unpurchased Notes; Redemption . . . . .	Notes not purchased pursuant to the Offer will remain outstanding immediately after the completion of the Offer. If the Requisite Consents with respect to the Proposed Amendments to the Indenture are received, the Financing Condition and other conditions to the Offer described below are met (or are waived), and such Proposed Amendments become effective pursuant to the Second Supplemental Indenture, untendered Notes will no longer have the benefits of substantially all of the restrictive covenants that will be eliminated from the Indenture by the Second Supplemental

Indenture. See “Proposed Amendments to the Indenture.” In addition, if the Offer is consummated, the aggregate principal amount of the Notes that remain outstanding will be reduced. This reduction may adversely affect the market price for any Notes that remain outstanding after consummation of the Offer. See “Certain Significant Considerations.”

The Company reserves the right to redeem any Notes that remain outstanding following the completion of the Offer at its own discretion in accordance with the terms of the Notes and the Indenture.

Proposed Amendments . . . . .

If the Requisite Consents have been received and the other conditions set forth in this Statement and the Letter of Transmittal have been satisfied or waived by the Company, prior to the Withdrawal Deadline, the Company intends to execute the Second Supplemental Indenture that will amend and supplement the Indenture and contain the Proposed Amendments; however, the Proposed Amendments will not become operative unless and until we have paid the Consent Payment to all Holders that have validly tendered (and not validly revoked) Consents on or prior to the Consent Date as described herein under “Terms of the Offer and the Solicitation — Acceptance for Payment and Payment for Notes.”

The Proposed Amendments will eliminate substantially all of the restrictive covenants, certain events of default and related provisions contained in the Indenture. See “Proposed Amendments to the Indenture.”

How to Tender Notes and Deliver

Consents . . . . .

Any beneficial owner who holds Notes through a Nominee and who desires to tender Notes pursuant to the Offer should request such beneficial owner’s Nominee to effect the transaction for such beneficial owner. Participants in DTC may electronically transmit their acceptance of the Offer (which will also constitute delivery of Consents) by causing DTC to transfer Notes to the Depository in accordance with DTC’s ATOP procedures for transfers. See “Terms of the Offer and the Solicitation — Procedure for Tendering Notes.” For further information, please call the Information Agent or the Dealer Manager and Solicitation Agent at the telephone numbers set forth on the back cover of this Statement or consult your Nominee for assistance.

Holders may not tender their Notes without delivering their Consents pursuant to the Solicitation and may not deliver Consents without tendering their Notes pursuant to the Offer.

Purpose of the Offer and the Solicitation . . . . .

The purpose of the Offer is to acquire any and all of the outstanding Notes. The purpose of the Solicitation is to obtain the Requisite Consents to the Proposed Amendments in order to eliminate substantially all of the restrictive covenants, certain events of default and related provisions contained in the Indenture.

Conditions to the Offer . . . . .

The Company’s obligation to accept for purchase, and to pay the Total Consideration or Tender Offer Consideration, as applicable, with respect to Notes validly tendered and not validly withdrawn and Consents validly delivered and not validly revoked pursuant to the Offer and the Solicitation, is conditioned upon satisfaction or waiver of the Requisite Consent Condition, the Financing Condition and the General Conditions. The Company reserves the right in its sole discretion to waive or modify, in whole or in part, any one or more of the conditions to the Offer. See “Terms of the Offer and the Solicitation — Conditions to the Offer and the Solicitation.”

Certain U.S. Federal Income Tax

Considerations . . . . .	For a summary of certain U.S. federal income tax considerations relating to the Offer and the Solicitation, see “Certain U.S. Federal Income Tax Considerations.”
Brokerage Commissions . . . . .	No brokerage fees or commissions are payable by Holders to the Dealer Manager and Solicitation Agent, the Information Agent, the Depositary, the Company or the Trustee. However, a beneficial owner may have to pay fees or commissions to the Nominee holding its Notes.
Dealer Manager and Solicitation Agent . .	RBC Capital Markets, LLC
Information Agent . . . . .	Georgeson Inc.
Depositary and Trustee . . . . .	Wells Fargo Bank, National Association
Further Information . . . . .	Questions may be directed to the Dealer Manager and Solicitation Agent or the Information Agent, and additional copies of this Statement and the Letter of Transmittal may be obtained by contacting the Information Agent, at its telephone number and address set forth on the back cover of this Statement.

## AVAILABLE INFORMATION

We currently file annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission (the “SEC”). You may read and copy materials that we have filed with the SEC at the SEC’s public reference room located at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information about the operation of the public reference room. Our SEC filings are also available to the public on the SEC’s Internet website at <http://www.sec.gov>. Statements made in this Statement concerning the provision of any contract, agreement, indenture or other documents are not necessarily complete. With respect to each such statement concerning a contract, agreement, indenture or other documents filed with the SEC, reference is made to such filing for a more complete description of the matter involved, and each such statement is qualified in its entirety by such reference.

## DOCUMENTS INCORPORATED BY REFERENCE

We incorporate by reference into this Statement the documents listed below and any future filings, we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the *Securities Exchange Act of 1934*, as amended (the “Exchange Act”), including any filings after the date hereof and prior to the Expiration Time (other than any such information that is “furnished”, as opposed to “filed”, for purposes of the Exchange Act). The information incorporated by reference is an important part of this Statement.

The following documents filed with the SEC are incorporated herein by reference and shall be deemed to be part hereof:

- Annual Report on Form 10-K for the fiscal year ended December 31, 2009.
- Current Reports on Form 8-K filed on January 22, 2010, January 27, 2010, June 3, 2010 and August 13, 2010.
- Quarterly Reports on Form 10-Q for the quarters ended March 31, 2010, June 30, 2010 and September 30, 2010.

All documents filed by us pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this Statement shall be deemed to be incorporated by reference in and made part of this Statement from the date of filing such document. In no event, however, will any of the information that we disclose under Item 2.02 or Item 7.01 of any Current Report on Form 8-K that we may from time to time furnish to the SEC be incorporated by reference into or be included in this Statement.

Any Statement contained herein or contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Statement to the extent that a statement contained herein or in any subsequently filed document that also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. We provide without charge, upon written or oral request, a copy of any or all the documents that are incorporated by reference into this Statement and a copy of any or all other contracts or documents which are referred to in this Statement. Requests should be directed to:

**Mercer International Inc.**  
Attention: Investor Relations  
Suite 2840, 650 West Georgia Street  
Vancouver, British Columbia, Canada, V6B 4N8  
(604) 684-1099

## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

Statements included or incorporated by reference herein may constitute “forward-looking statements”. Forward-looking statements are based on expectations, forecasts, and assumptions by our management and involve a number of risks, uncertainties, and other factors that could cause actual results to differ materially from those stated, including, without limitation, those set forth in “Item 1A — Risk Factors” and “Item 7 — Management’s Discussion of and Analysis of Financial Condition and Results of Operations” of our Annual Report on Form 10-K for the year ended December 31, 2009, and “Item 2- Management’s Discussion and Analysis of Financial Condition and Results of Operations” of our Quarterly Report on Form 10-Q for the quarter ended September 30, 2010, incorporated herein by reference.

We cannot be certain that any expectations, forecasts, or assumptions made by management in preparing these forward-looking statements will prove accurate, or that any projections will be realized. It is to be expected that there may be differences between projected and actual results. In particular, statements about the Company’s plan’s or intentions regarding the completion of the Offer, the Solicitation and the Debt Offering are forward looking statements and may not

necessarily occur. Our forward-looking statements speak only as of the date of their initial issuance. Except as required by law, we assume no responsibility to update or revise publicly any forward-looking statements, whether as a result of new information, future events, or otherwise

Factors that could cause actual results to differ materially from those contemplated in our forward looking statements include:

- our markets;
- demand and prices for our products;
- raw material costs and supply;
- energy prices, sales and our initiatives to enhance our generation and sales of surplus energy;
- capital expenditures and expected returns or benefits;
- the economy;
- foreign exchange rates — particularly the U.S. dollar and Canadian dollar;
- our level of indebtedness;
- climate change; and
- derivatives.

## **MERCER INTERNATIONAL INC.**

### **Company Overview**

We are a Washington corporation and our shares of common stock are quoted and listed for trading on the NASDAQ Global Market (MERC) and the Toronto Stock Exchange (MRI.U).

We operate in the pulp business and are the second largest producer of market northern bleached softwood kraft, or “NBSK”, pulp in the world. We are the sole kraft pulp producer, and the only producer of pulp for resale, known as “market pulp”, in Germany, which is the largest pulp import market in Europe. Our operations are located in Eastern Germany and Western Canada. We currently employ approximately 1,056 people at our German operations, 381 people at our Celgar mill in Western Canada and 18 people at our office in Vancouver, British Columbia, Canada. We operate three NBSK pulp mills with a consolidated annual production capacity of approximately 1.5 million air-dried metric tons.

Our principal executive offices are located at Suite 2840, 650 West Georgia Street, Vancouver, British Columbia, Canada, V6B 4N8 and our telephone number is (604) 684-1099 and Internet address is <http://www.mercerint.com>. Information on the website is not incorporated herein by reference.

### **PURPOSE OF THE OFFER AND THE SOLICITATION**

The purpose of the Offer is to acquire any and all of the outstanding Notes. The purpose of the Solicitation is to obtain the Requisite Consents to the Proposed Amendments in order to eliminate substantially all of the restrictive covenants, certain events of default and related provisions contained in the Indenture. We reserve the right to redeem any Notes that remain outstanding following the completion of the Offer at our own discretion, in accordance with the terms of the Notes and the Indenture.

### **SOURCE OF FUNDS**

We intend to fund the Offer from the net proceeds of the Debt Offering and, if necessary, other cash on hand.

### **TERMS OF THE OFFER AND THE SOLICITATION**

#### **General**

Upon the terms and subject to the conditions set forth in this Statement and in the Letter of Transmittal and any supplements or amendments hereto or thereto, the Company is soliciting Consents and hereby offers to purchase for cash any and all of the Notes for the Total Consideration or Tender Offer Consideration, as the case may be, plus accrued and unpaid interest from and including the last interest payment date for the Notes to, but not including, the applicable Settlement Date, payable on the applicable Settlement Date.

The execution and delivery of a Letter of Transmittal by a Holder tendering Notes pursuant to the Offer will constitute the Consent of such Holder to the Proposed Amendments. Holders may not tender their Notes without delivering their Consents pursuant to the Solicitation and may not deliver Consents without tendering their Notes pursuant to the Offer. Tenders of Notes will be accepted only in principal amounts of \$1,000 or integral multiples thereof.

Subject to the terms and conditions of the Offer, Holders that validly tender and do not validly withdraw their Notes at or prior to the Consent Date and that are accepted for purchase by the Company will be eligible to receive the Total Consideration, plus accrued and unpaid interest from and including the last interest payment date for the Notes to, but not including, the Early Settlement Date. The Early Settlement Date in respect of the Notes that are validly tendered and not validly withdrawn at or prior to the Consent Date and accepted for payment will be promptly after the Consent Date, but prior to the Expiration Time, and is expected to be on or about November 18, 2010, unless the Consent Date is extended by the Company in its sole discretion.

Subject to the terms and conditions of the Offer, Holders that validly tender their Notes after the Consent Date and at or prior to the Expiration Time and that are accepted for purchase by the Company will be eligible to receive the Tender Offer Consideration, plus accrued and unpaid interest from and including the last interest payment date for the Notes to, but not including, the Final Settlement Date, but such Holders will not be eligible to receive the Consent Payment. Only Notes that are validly tendered in accordance with the procedures set forth herein before the Expiration Time will, upon the terms and subject to the conditions hereof, be eligible for acceptance by the Company. If so accepted, payment will be made therefor on the applicable Settlement Date. The Final Settlement Date for Notes that are validly tendered after the Consent Date and at or prior to the Expiration Time will be promptly after the Expiration Time and is expected to be on or about December 2, 2010, one business day following the Expiration Time, unless the Offer is extended by the Company in its sole discretion. If the Offer is not consummated, no such payments will be made. The applicable conditions to the Offer will be either satisfied or waived by the Company at or prior to the applicable Settlement Date if Notes are to be accepted for payment.

If the Requisite Consents have been received and the other conditions set forth in this Statement and the Letter of Transmittal have been satisfied or waived by the Company, promptly following the Withdrawal Deadline, the Company intends to execute a Second Supplemental Indenture to the Indenture that will amend and supplement the Indenture and contain the Proposed Amendments; however, the Proposed Amendments will not become operative unless and until we have paid the Consent Payment to all holders that have validly tendered (and not validly revoked) Consents on or prior to the Consent Date as described herein under “Terms of the Offer and the Solicitation — Acceptance for Payment and Payment for Notes.” If the Proposed Amendments become effective, all Holders, including non-tendering Holders, will be bound thereby. The Indenture, without giving effect to the Proposed Amendments, will remain in effect until such Proposed Amendments become operative by their terms.

In the event of any dispute or controversy regarding the Total Consideration, the Tender Offer Consideration or the amount of accrued interest for Notes tendered pursuant to the Offer, the Company’s determination shall be conclusive and binding, absent manifest error.

Except as required by applicable law, Notes tendered prior to the Withdrawal Deadline may only be withdrawn, in writing, prior to the Withdrawal Deadline. Notes tendered after the Withdrawal Deadline and prior to the Expiration Time may not be withdrawn. The Company may extend or otherwise amend the Consent Date or the Expiration Time or waive conditions to the Offer without extending the Withdrawal Deadline or otherwise reinstating withdrawal rights of Holders. In the event of a termination of the Offer, all Notes tendered pursuant to the Offer will be promptly returned to the tendering Holders. In such event, the Total Consideration or the Tender Offer Consideration, as applicable, will not be paid or become payable with respect to any Notes. In addition, the Company may seek to acquire Notes through open market purchases, privately negotiated transactions, tender offers, exchange offers or otherwise, upon such terms and at such prices as we may determine, which may be more or less than the price to be paid pursuant to the Offer and could be for cash or other consideration. The Company reserves the right to redeem any Notes that remain outstanding following the completion of the Offer, at its own discretion, in accordance with the terms of the Notes and the Indenture.

The Company’s obligation to accept and pay for Notes validly tendered pursuant to the Offer is conditioned upon satisfaction or waiver of the Requisite Consent Condition, the Financing Condition and certain other conditions as set forth under “Terms of the Offer and the Solicitation — Conditions to the Offer and the Solicitation.” **Subject to applicable securities laws and the terms set forth in this Statement, the Company reserves the right (i) to waive or modify in whole or in part any one or more of the conditions to the Offer, (ii) to extend the Consent Date, the Expiration Time or the Withdrawal Deadline with respect to the Offer and/or Solicitation, (iii) to modify or**

**terminate the Offer, (iv) to delay the acceptance for purchase of any Notes or delay the purchase of any Notes, or (vi) otherwise to amend the Offer in any respect.** The rights reserved by the Company in this paragraph are in addition to the Company's rights to terminate the Offer described in "Terms of the Offer and the Solicitation — Conditions to the Offer and the Solicitation."

If the Company modifies the Total Consideration or the Tender Offer Consideration, it will announce that fact and extend the Offer, if necessary and as applicable, so that the Offer remains open for at least ten New York City business days from and including the date of announcement of that change. If the Requisite Consents with respect to the Proposed Amendments are not received by the Consent Date, the Solicitation may be extended, from time to time, by the Company for fixed intervals of no less than one business day.

Any amendment to the Offer or Solicitation will apply to all Notes tendered in the Offer and the Solicitation. Any extension or amendment of the Offer or Solicitation will be followed as promptly as practicable by public announcement thereof, the announcement in the case of an extension of the Offer or Solicitation to be issued no later than 9:00 a.m., New York City time, on the next New York City business day after the previously scheduled Consent Date or Expiration Time, as the case may be. Without limiting the manner in which any public announcement may be made, the Company will have no obligation to publish, advertise or otherwise communicate any such public announcement other than by issuing a press release to *Marketwire* or a similar service.

If the Company makes a material change in the terms of the Offer or the information concerning the Offer, the Company will disseminate additional offering materials and extend the Offer to the extent required by applicable law.

Directors, officers and employees of the Company who own Notes may participate in the Offer on the same basis as other Holders.

#### **Acceptance for Payment and Payment for Notes**

Upon the terms and subject to the conditions of the Offer (including, if the Offer is extended or amended, the terms and conditions of any such extension or amendment) and applicable law, the Company will purchase, by accepting for payment, and will promptly pay for, any and all Notes that are validly tendered and not validly withdrawn pursuant to the Offer.

For purposes of the Offer, tendered Notes will be deemed to have been accepted for purchase, if, as and when the Company gives oral or written notice thereof to the Depositary. Payment for Notes accepted for purchase and, if applicable, the related Consent Payment, shall be made on the applicable Settlement Date by the deposit of the aggregate Total Consideration or the aggregate Tender Offer Consideration, as the case may be, plus accrued and unpaid interest from and including the last interest payment date for the Notes to, but not including, the applicable Settlement Date, for all such tendered Notes, in immediately available funds by the Company with (i) the Depositary, which will act as agent for tendering Holders for the purpose of receiving payment from the Company and transmitting such payment to tendering Holders or (ii) DTC. Under no circumstances will interest on the Total Consideration or Tender Offer Consideration, as the case may be, be paid by the Company by reason of any delay on the part of the Depositary or DTC in making payment to Holders.

The Company expressly reserves the right, in its sole discretion and subject to Rule 14e-1(c) under the Exchange Act, to delay acceptance for purchase of or payment for Notes in order to comply, in whole or in part, with any applicable law. See "Terms of the Offer and the Solicitation — Conditions to the Offer and the Solicitation." In all cases, payment by the Depositary or DTC to Holders or beneficial owners of the Total Consideration or Tender Offer Consideration, as the case may be, for Notes accepted for purchase pursuant to the Offer will be made only after receipt by the Depositary of (i) a certificate representing the Notes or timely confirmation of a book-entry transfer of such Notes into the Depositary's account at DTC pursuant to the procedures set forth under "Terms of the Offer and the Solicitation — Procedure for Tendering Notes," (ii) a properly completed and duly executed Letter of Transmittal (or manually signed facsimile thereof) or a properly transmitted Agent's Message (as defined below) through ATOP, and (iii) any other documents required by the Letter of Transmittal.

Tendering Holders will not be obligated to pay brokerage fees or commissions to the Dealer Manager and Solicitation Agent, the Information Agent, the Depositary or the Company. The Company will pay or cause to be paid all transfer taxes with respect to the purchase of any Notes unless the box titled "Special Payment Instructions" or the box titled "Special Delivery Instructions" on the Letter of Transmittal has been completed, as described in the instructions thereto. If payment is to be made to, or if Notes not tendered or purchased are to be registered in the name of or delivered to, any persons other than the registered owners, or if tendered Notes are registered in the name of any persons other than

the persons signing the Letter of Transmittal, the amount of any transfer taxes (whether imposed on the registered Holder or such other person) payable on account of the transfer to such other person will be deducted from the payment unless satisfactory evidence of the payment of such taxes or exemption therefrom is submitted.

The Company reserves the right to transfer or assign, in whole at any time or in part from time to time, to one or more affiliates, the right to purchase Notes tendered pursuant to the Offer, but any such transfer or assignment will not relieve the Company of its obligations under the Offer or prejudice the rights of tendering Holders to receive payment of the Total Consideration or Tender Offer Consideration, as the case may be, for Notes validly tendered pursuant to the Offer and accepted for purchase by the Company, subject to the terms and conditions of the Offer.

### **Procedure for Tendering Notes**

The tender of Notes pursuant to the Offer and in accordance with the procedures described below will constitute a valid tender of Notes and the delivery of a Consent to the Proposed Amendments. Holders may not tender their Notes without delivering their Consents pursuant to the Solicitation and may not deliver their Consents without validly tendering their Notes pursuant to the Offer.

**The method of delivery of Notes and Letters of Transmittal, any required signature guarantees and all other required documents, including delivery through DTC and any acceptance of an Agent's Message transmitted through ATOP, is at the election and risk of the person tendering Notes and delivering Letters of Transmittal or transmitting an Agent's Message and, except as otherwise provided in the Letter of Transmittal, delivery will be deemed made only when actually received by the Depository. If delivery is by mail, it is suggested that Holders use properly insured, registered mail with return receipt requested and that the mailing be made sufficiently in advance of the Consent Date or Expiration Time, as applicable, to permit delivery to the Depository at or prior to such time. Manually signed facsimile copies of the Letter of Transmittal, properly completed and duly executed, will be accepted. In no event shall the Holder send any Notes to the Dealer Manager and Solicitation Agent or the Company.**

*Valid Tender of Notes.* The tender by a Holder of Notes (and the acceptance of such tender by the Company) pursuant to one of the procedures set forth below will constitute a binding agreement between such Holder and the Company in accordance with the terms and subject to the conditions set forth herein and in the Letter of Transmittal.

Only Holders are authorized to tender Notes and deliver their Consents. The procedures by which Notes may be tendered and Consents given by beneficial owners that are not Holders will depend upon the manner in which the Notes are held. Holders that wish to transfer any untendered Notes and that wish to have the Total Consideration or the Tender Offer Consideration, as applicable, paid to a transferee should validly tender the Notes and deliver their Consents, designating the transferee as payee in the boxes marked "Special Delivery Instructions" and "Special Payment Instructions" contained in the Letter of Transmittal.

Holders that validly tender (and do not validly withdraw) Notes pursuant to the Offer at or prior to the Consent Date will receive the Total Consideration, plus accrued and unpaid interest from and including the last interest payment date for the Notes to, but not including, the Early Settlement Date, subject to the terms and conditions set forth in this Statement and the Letter of Transmittal. Holders that tender Notes pursuant to the Offer after the Consent Date but at or prior to the Expiration Time will receive only the Tender Offer Consideration, plus accrued and unpaid interest from and including the last interest payment date for the Notes to, but not including, the Final Settlement Date, subject to the terms and conditions set forth in this Statement and the Letter of Transmittal, but such Holders will not receive the Consent Payment. Notwithstanding any other provision hereof, payment of the Total Consideration or the Tender Offer Consideration, as the case may be, for Notes tendered and accepted for payment pursuant to the Offer will, in all cases, be made only after timely receipt (i.e., at or prior to the Consent Date if the Holder is to receive the Total Consideration or following the Consent Date and at or prior to the Expiration Time if the Holder is to receive only the Tender Offer Consideration) by the Depository of a Book-Entry Confirmation (as defined below) of the transfer of such Notes into the Depository's account at DTC as described above, and a Letter of Transmittal (or manually signed facsimile thereof) with respect to such Notes, properly completed and duly executed, with any required signature guarantees and any other documents required by the Letter of Transmittal, or (in the case of a book-entry transfer) a properly transmitted Agent's Message in lieu of the Letter of Transmittal.

*Tender of Notes Held Through a Custodian.* To effectively tender Notes and deliver Consents that are held of record by a Nominee, the beneficial owner thereof must instruct such Nominee to tender the Notes and deliver Consents on the beneficial owner's behalf. Any beneficial owner of Notes held of record by DTC or its nominee, through authority granted

by DTC, may direct the DTC participant through which such beneficial owner's Notes are held in DTC to tender Notes and deliver Consents, if applicable, on such beneficial owner's behalf.

*Tender of Notes Held Through DTC.* To effectively tender Notes (and thereby deliver Consents) that are held through DTC, DTC participants should electronically transmit their acceptance through ATOP (and thereby tender the Notes), in accordance with DTC's applicable procedures, for which the transaction will be eligible, followed by a properly transmitted Agent's Message delivered to the Depository. Upon receipt of such Holder's acceptance through ATOP, DTC will edit and verify the acceptance and send an Agent's Message to the Depository for its acceptance. Delivery of tendered Notes must be made to the Depository pursuant to the book-entry delivery procedures set forth below.

Except as provided below, unless the Notes being tendered are deposited with the Depository at or prior to the Consent Date or Expiration Time, as applicable (accompanied by a properly completed and duly executed Letter of Transmittal or a properly transmitted Agent's Message, as applicable), the Company may, at its option, treat such tender as defective for purposes of the right to receive the applicable Total Consideration or Tender Offer Consideration, respectively. Payment for the Notes will be made only against deposit of the tendered Notes and delivery of all other required documents.

In order to validly tender Notes (and thereby deliver Consents) at or prior to the Consent Date or the Expiration Time, as applicable, with respect to Notes transferred pursuant to ATOP, a DTC participant using ATOP must also properly transmit an Agent's Message. Pursuant to authority granted by DTC, any DTC participant that has Notes credited to its DTC account at any time (and thereby held of record by DTC's nominee) may directly instruct the Depository to tender Notes at or prior to the Consent Date or the Expiration Time, as applicable, as though it were the registered Holder thereof by so transmitting an Agent's Message.

*Book-Entry Delivery Procedures.* The Depository will establish a new account or utilize an existing account with respect to the Notes at DTC (DTC being a Book-Entry Transfer Facility) for purposes of the Offer and the Solicitation promptly after the date of this Statement (to the extent such arrangements have not been made previously by the Depository), and any financial institution that is a participant in DTC may make book-entry delivery of the Notes by causing DTC to transfer such Notes into the Depository's account in accordance with DTC's procedures for such transfer. However, although delivery of Notes may be effected through book-entry transfer into the Depository's account at DTC, the Letter of Transmittal (or manually signed facsimile thereof), with any required signature guarantees, or (in connection with a book-entry transfer) an Agent's Message in lieu of the Letter of Transmittal, and any other required documents, must, in any case, be transmitted to and received by the Depository at its address set forth on the back cover of this Statement at or prior to the Consent Date or the Expiration Time, as applicable. **Delivery of documents to DTC does not constitute delivery to the Depository.**

The confirmation of a book-entry transfer into the Depository's account at DTC as described above is referred to herein as a "Book-Entry Confirmation."

The term "Agent's Message" means a message transmitted by DTC to, and received by, the Depository and forming a part of the Book-Entry Confirmation, which states that DTC has received an express acknowledgment from the participant in DTC tendering the Notes and that such participant has received the Letter of Transmittal and agrees to be bound by the terms of the Letter of Transmittal, and the Company may enforce such agreement against such participant.

**IN THE CASE OF NOTES HELD IN CERTIFICATED FORM, THE LETTER OF TRANSMITTAL AND THE NOTES SHOULD BE SENT ONLY TO THE DEPOSITARY, AND NOT TO THE COMPANY, THE TRUSTEE, THE DEALER MANAGER AND SOLICITATION AGENT, OR TO ANY BOOK-ENTRY TRANSFER FACILITY.**

*Signature Guarantees.* Signatures on all Letters of Transmittal must be guaranteed by a recognized participant in the Securities Transfer Agents Medallion Program, the New York Stock Exchange Medallion Signature Program or the Stock Exchange Medallion Program (a "Medallion Signature Guarantor"), unless the Notes tendered thereby are tendered (1) by a registered Holder of Notes (or by a participant in DTC whose name appears on a security position listing as the owner of such Notes) that has not completed the box marked "Special Delivery Instructions" or the box marked "Special Payment Instructions" in the Letter of Transmittal or (2) for the account of a member firm of a registered national securities exchange, a member of the Financial Industry Regulatory Authority, Inc. or a commercial bank or trust company having an office or correspondent in the United States (each, an "Eligible Institution"). If the Notes are registered in the name of a person other than the signer of the Letter of Transmittal or if Notes not accepted for payment or

not tendered are to be returned to a person other than the registered Holder, then the signatures on the Letter of Transmittal accompanying the tendered Notes must be guaranteed by a Medallion Signature Guarantor as described above. See Instructions 1 and 2 of the Letter of Transmittal.

*No Guaranteed Delivery.* The Company does not intend to permit tenders of Notes by guaranteed delivery procedures.

*Backup Withholding.* To prevent backup U.S. federal income tax withholding, each tendering U.S. Holder (as defined below, see “Certain U.S. Federal Income Tax Considerations”) of Notes generally must provide the Depository with such Holder’s correct taxpayer identification number and certify that such Holder is not subject to backup U.S. federal income tax withholding by completing the Internal Revenue Service Form W-9 included in the Letter of Transmittal, and each tendering Non-U.S. Holder (as defined below, see “Certain U.S. Federal Income Tax Considerations”), including a disregarded domestic entity that has a non-U.S. owner, will be required to provide a properly completed Internal Revenue Service Form W-8BEN certifying its non-U.S. status or otherwise establish a basis for exemption from backup withholding. For a discussion of the U.S. federal income tax considerations relating to backup withholding, see “Certain U.S. Federal Income Tax Considerations.”

*Determination of Validity.* All questions as to the validity, form, eligibility (including time of receipt) and acceptance of any tendered Notes or Consents pursuant to any of the procedures described above will be determined by the Company in its sole discretion, which determination shall be final and binding. The Company reserves the absolute right to reject any or all tenders of any Notes or Consents determined by it not to be in proper form or if the acceptance for payment of, or payment for, such Notes may be unlawful. The Company also reserves the absolute right, in its sole discretion, to waive any of the conditions of the Offer or any defect or irregularity in any tender with respect to Notes or Consents of any particular Holder, whether or not similar defects or irregularities are waived in the case of other Holders. The Company’s interpretation of the terms and conditions of the Offer will be final and binding.

Any defect or irregularity in connection with tenders of Notes or Consents must be cured within such time as the Company determines, unless waived by the Company. Tenderees of Notes and Consents shall not be deemed to have been made until all defects or irregularities have been waived by the Company or cured. None of the Company, the Information Agent, the Depository, the Dealer Manager and Solicitation Agent, the Trustee or any other person will be under any duty to give notification of any defects or irregularities in tenders or will incur any liability for failure to give any such notification. If the Company waives its right to reject a defective tender of Notes, the Holder will be entitled to the Total Consideration or the Tender Offer Consideration, as applicable, plus accrued and unpaid interest from and including the last interest payment date for the Notes to, but not including, the applicable Settlement Date.

#### **Withdrawal of Tenderees and Revocation of Consents**

Except as required by applicable law, Notes tendered prior to the Withdrawal Deadline may only be withdrawn and the concurrent Consents may only be validly revoked, in writing, prior to the Withdrawal Deadline, and Notes tendered after the Withdrawal Deadline and prior to the Expiration Time may not be withdrawn. **The Company reserves the right to terminate or withdraw the Offer at any time and from time to time, subject to applicable law, and may extend or otherwise amend the Consent Date or the Expiration Time or waive or modify, in whole or in part, any one or more of the conditions to the Offer without extending the Withdrawal Deadline or otherwise reinstating withdrawal rights of the Holders provided that the Second Supplemental Indenture has been executed.** In the event of a termination of the Offer, all Notes tendered pursuant to the Offer will be promptly returned to the tendering Holders. A valid withdrawal of tendered Notes by a Holder will constitute the concurrent valid revocation of such Holder’s related Consent, and a valid revocation of a Consent by a Holder will constitute the concurrent valid withdrawal of such Holder’s related tendered Notes. In order for a Holder to validly revoke a Consent, such Holder must validly withdraw the related tendered Notes.

Pursuant to Rule 14e-1 under the Exchange Act, if the Company decreases the principal amount of Notes subject to the Offer or increases or decreases any portion of the Total Consideration or Tender Offer Consideration for the Notes, then it will extend the Offer as required by applicable law, and, if required by applicable law, extend the Withdrawal Deadline.

For a withdrawal of a tender of Notes and the concurrent revocation of Consents to be effective, a written or facsimile transmission notice of withdrawal, or a properly transmitted “Request Message” through ATOP, must be received by the Depository before the Withdrawal Deadline at its address set forth on the back cover of this Statement. Any such written or facsimile notice of withdrawal must (i) specify the name of the person that tendered the Notes to be withdrawn and, if

different, the name of the record holder of such Notes (or, in the case of Notes tendered by book-entry transfer, the name of the participant for whose account such Notes were tendered and such participant's account number at DTC to be credited with the withdrawn Notes), (ii) contain the description, CUSIP number and the aggregate principal amount of the Notes to be withdrawn and (iii) be signed by the Holder of such Notes in the same manner as the original signature on the Letter of Transmittal by which such Notes were tendered (including any required signature guarantees), if any (or, in the case of Notes tendered by a DTC participant by an Agent's Message through ATOP, be signed by such participant in the same manner as the participant's name is listed on the applicable Agent's Message), or be accompanied by documents of transfer sufficient to have the Trustee register the transfer of the Notes into the name of the person withdrawing such Notes and (iv) if the Letter of Transmittal was executed by a person other than the Holder, be accompanied by a properly completed irrevocable proxy that authorizes such person to effect such revocation on behalf of such Holder. The signature(s) on the notice of withdrawal of any tendered Notes must be guaranteed by a Medallion Signature Guarantor unless the relevant Notes have been tendered for the account of an Eligible Institution. If the Notes to be withdrawn have been delivered or otherwise identified to the Depository, a signed notice of withdrawal is effective immediately upon written or facsimile notice of withdrawal even if physical release is not yet effected by the Depository. Any Notes validly withdrawn will be deemed to be not validly tendered for purposes of the Offer.

Valid withdrawal of Notes and revocation of Consents can be accomplished only in accordance with the foregoing procedures. Holders may not rescind their valid withdrawals of tendered Notes. However, Notes validly withdrawn may thereafter be retendered at any time at or prior to the Expiration Time by following the procedures described under "Terms of the Offer and the Solicitation — Procedure for Tendering Notes."

**All questions as to the validity (including time of receipt) of notices of withdrawal and revocation of Consents will be determined by the Company in its sole discretion, which determination shall be final and binding. None of the Company, the Information Agent, the Depository, the Dealer Manager and Solicitation Agent, the Trustee or any other person will be under any duty to give notification of any defects or irregularities in any notice of withdrawal or revocation of Consents, or incur any liability for failure to give any such notification.**

#### **Conditions to the Offer and the Solicitation**

Notwithstanding any other provision of the Offer and the Solicitation and in addition to (and not in limitation of) the Company's rights to terminate, to extend and/or amend the Offer and the Solicitation, in its sole discretion, the Company shall not be required to accept for payment, purchase or pay for, and may delay the acceptance for payment of, any tendered Notes, in each event subject to Rule 14e-1(c) under the Exchange Act, and may terminate the Offer and the Solicitation, if the Financing Condition, Requisite Consent Condition or the General Conditions have not been satisfied. If the Notes are accepted for purchase on the Early Settlement Date, the Company's obligation to accept for purchase, and to pay for, any Notes validly tendered after the Consent Date and on or prior to the Expiration Time shall only be conditioned upon satisfaction of clause (ii) of the General Conditions.

All of the following constitute the "General Conditions":

- i. there shall not have been instituted, threatened or be pending any action, proceeding or investigation (whether formal or informal) (and there shall not have been any material adverse development in any action or proceeding currently instituted, threatened or pending) before or by any court or governmental, regulatory or administrative agency or instrumentality, self-regulating organization or by any other person, in connection with the Offer or the Solicitation that, in the reasonable judgment of the Company, either (a) is, or is reasonably likely to be, materially adverse to the business, operations, properties, condition (financial or otherwise), assets, liabilities or prospects of the Company or its subsidiaries, (b) would or might prohibit, prevent, restrict or delay consummation of the Offer or the Solicitation, or (c) would materially impair the contemplated benefits of the Offer or the Solicitation to the Company;
- ii. no order, statute, rule, regulation, executive order, stay, decree, judgment or injunction shall have been proposed, enacted, entered, issued, promulgated, enforced or deemed applicable by any court or governmental, regulatory or administrative agency or instrumentality or self-regulating organization that, in the reasonable judgment of the Company, either (a) would or might prohibit, prevent, restrict or delay consummation of the Offer or the Solicitation or (b) is, or is reasonably likely to be, materially adverse to the business, operations, properties, condition (financial or otherwise), assets, liabilities or prospects of the Company or its subsidiaries;

- iii. there shall not have occurred and not be likely to occur any event affecting the business or financial affairs of the Company or its subsidiaries that, in the reasonable judgment of the Company, would or might result in any of the consequences referred to in sub-clause (a) or (b) of clause (ii) above;
- iv. the Trustee shall not have objected in any respect to or taken action that could, in the reasonable judgment of the Company, adversely affect the consummation of the Offer or the Solicitation and shall not have taken any action that challenges the validity or effectiveness of the procedures used by the Company in the making of the Offer or the Solicitation or acceptance of, or payment for, the Notes; or
- v. there has not occurred (a) any general suspension of, or limitation on prices for, trading in securities in the United States or Canadian securities or financial markets, (b) any significant change in the price of the Notes in the United States or other major securities or financial markets, (c) a material impairment in the trading market for debt securities, (d) a declaration of a banking moratorium or any suspension of payments in respect to banks in the United States, Canada, the European Union or other major financial markets, (e) any limitation (whether or not mandatory) by any government or governmental, administrative or regulatory authority or agency, domestic or foreign, or other event that, in the reasonable judgment of the Company, might affect the extension of credit by banks or other lending institutions, (f) a commencement of a war, armed hostilities, terrorist acts or other national or international calamity directly or indirectly involving the United States, Canada or the European Union, or (g) in the case of any of the foregoing existing on the date hereof, a material acceleration or worsening thereof.

The General Conditions shall be deemed to be satisfied unless any of the foregoing conditions shall fail to be true on or after the date of this Statement and on or prior to the Early Settlement Date or, in the case of clause (ii) only, the Final Settlement Date.

The foregoing conditions are for the sole benefit of the Company and may be asserted by the Company regardless of the circumstances giving rise to any such condition (including any action or inaction by the Company) and may be waived or modified by the Company, in whole or in part, at any time and from time to time, in the sole discretion of the Company. The applicable conditions to the Offer and the Solicitation will be either satisfied or waived by the Company at or prior to the applicable Settlement Date. The failure by the Company at any time to exercise any of the foregoing rights will not be deemed a waiver of any other right and each right will be deemed an ongoing right that may be asserted at any time and from time to time. The Company has not made a decision as to what circumstances would lead it to waive any such condition, and any such waiver would depend on circumstances prevailing at the time of such waiver. Any determination by the Company concerning the events described in this section shall be final and binding upon all the Holders.

#### **No Recommendation**

Holders must make their own decisions with regard to tendering Notes or providing Consents. None of the Company (or its board of directors), the Trustee, the Information Agent, the Depositary, the Dealer Manager and Solicitation Agent or any of their affiliates makes any recommendation, and no one has been authorized by any of them to make any recommendation, as to whether Holders should tender, or refrain from tendering, all or any portion of the principal amount of their Notes pursuant to the Offer or provide, or refrain from providing, any Consent pursuant to the Solicitation.

#### **No Appraisal Rights**

No appraisal rights are available to Holders in connection with the Offer.

### **CERTAIN SIGNIFICANT CONSIDERATIONS**

You should carefully consider the following information, in addition to the other information contained in this Statement, before deciding whether to tender your Notes in the Offer and deliver your Consent in the Solicitation.

#### **Effects of the Proposed Amendments**

If the Offer is consummated and the Proposed Amendments become effective, such Proposed Amendments will eliminate substantially all of the restrictive covenants, certain events of default and related provisions contained in the Indenture. If such Proposed Amendments become effective, Notes that are not purchased by the Company pursuant to the Offer will remain outstanding and will be subject to the terms of the Indenture, as amended by such Proposed Amendments. As a result, Holders of Notes not tendered or not purchased pursuant to the Offer will no longer be entitled to the benefits of substantially all of the restrictive covenants currently contained in the Indenture. The

elimination or modification of these restrictive covenants, certain events of default and other provisions would permit us to take certain actions previously prohibited or limited by certain restrictions in such Indenture that could increase the credit risks with respect to the Company, adversely affect the market price and credit rating of the remaining Notes or otherwise be materially adverse to the interest of Holders, without violating the provisions of the Indenture.

After the Proposed Amendments become effective, we reserve the right to redeem any or all of the remaining Notes outstanding, at our discretion in accordance with the terms of the Notes and the Indenture.

### **Limited Trading Market; Reduced Liquidity as a Result of the Offer and the Solicitation**

To the extent that Notes are tendered and accepted in the Offer, the trading market for the Notes would become more limited. A debt security with a smaller outstanding principal amount available for trading (a smaller “float”) may command a lower price than would a comparable debt security with a greater float. Therefore, the market price for such Notes not tendered or not purchased may be affected adversely to the extent that the principal amount of such Notes tendered pursuant to the Offer reduces the float. The smaller float may also tend to make the trading price more volatile. Holders of Notes not tendered or not purchased may attempt to obtain quotations for their Notes from their brokers; however, there can be no assurance that any trading market will exist for the Notes following consummation of the Offer. The extent of the public market for the Notes following consummation of the Offer will depend upon, among other things, the remaining outstanding principal amount of such Notes after the Offer, the number of Holders of such Notes remaining at such time and the interest in maintaining a market in such Notes on the part of securities firms and other factors. The Company does not intend to create or sustain a market for any Notes that remain outstanding following consummation of the Offer. As a result, Holders that do not tender their Notes in the Offer may not be able to sell their Notes at prices they consider adequate, or at all, after the closing of the Offer.

### **Redemption**

The Company reserves the right to redeem any Notes that remain outstanding following the completion of the Offer, at its own discretion, in accordance with the terms of the Notes and the Indenture.

### **Conditions to the Closing of the Offer and the Solicitation**

The closing of the Offer and the Solicitation is subject to the satisfaction or waiver of several conditions, including the Requisite Consent Condition and the Financing Condition. See “Terms of the Offer and the Solicitation — Conditions to the Offer and the Solicitation.” There can be no assurance that such conditions will be satisfied or waived and thus no assurance that the Offer and the Solicitation will be closed or that any failure to close the Offer and the Solicitation will not have a negative effect on the market price and liquidity of the Notes.

### **Withdrawal Rights**

Notes tendered prior to the Withdrawal Deadline may only be withdrawn, in writing, prior to the Withdrawal Deadline. Notes tendered after the Withdrawal Deadline and prior to the Expiration Time may not be withdrawn. The Company is not required to extend the Withdrawal Deadline in connection with any extension of the Expiration Time.

## **PROPOSED AMENDMENTS TO THE INDENTURE**

The following summarizes the Proposed Amendments for which Consents are being sought pursuant to the Solicitation. The summary of the provisions of the Indenture affected by the Proposed Amendments set forth below is qualified in its entirety by reference to the full and complete terms in the Indenture, copies of which are available upon request without charge from the Information Agent or the Company. Capitalized terms used in the summary below but not defined in this Statement have the meanings given to them in the Indenture. The Proposed Amendments would eliminate substantially all of the restrictive covenants, certain events of default and related provisions contained in the Indenture.

Pursuant to the terms of the Indenture, the Proposed Amendments set forth below require the written consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes not owned by the Company or its affiliates.

The Proposed Amendments constitute a single proposal, and a tendering and consenting Holder must consent to the Proposed Amendments as an entirety and may not consent selectively with respect to certain of the Proposed Amendments. If the Proposed Amendments become effective, the Holders of any untendered Notes will be bound thereby. The Second Supplemental Indenture will provide that the relevant Proposed Amendments will not become effective unless and until the Company accepts for payment validly tendered Notes representing a majority in aggregate

principal amount of the outstanding Notes issued under the Supplemental Indenture pursuant to the Offer and the Solicitation. The Second Supplemental Indenture also will provide that, if after the execution of the Second Supplemental Indenture, all payments in respect of all Notes validly tendered (and not validly revoked) on or prior to the Consent Date and accepted for payment pursuant to the Offer are not made on the Early Settlement Date (as described herein under “Terms of the Offer and the Solicitation — Acceptance for Payment and Payment for Notes”), the Second Supplemental Indenture will not become effective and the Proposed Amendments will have no effect.

The valid tender of Notes by a Holder pursuant to the Offer and the Solicitation will be deemed to constitute the giving of a Consent by such Holder to the Proposed Amendments as set forth in the Second Supplemental Indenture. The Company is not soliciting and will not accept Consents from Holders that are not tendering their Notes pursuant to the Offer.

*Deletion of Covenants.* The Proposed Amendments would delete from the Indenture in their entirety the sections of the Supplemental Indenture summarized below:

- *Section 3.09 Offer to Purchase by Application of Excess Proceeds.* This section currently requires the Company to offer to purchase the Notes with the proceeds of certain Asset Sales.
- *Section 4.03 Reports.* This section currently requires the Company to file certain annual, quarterly and other reports with the SEC and to provide such reports to the Trustee and the Holders of the Notes.
- *Section 4.04 Compliance Certificate.* This section currently requires the Company and each Guarantor to deliver to the Trustee an annual compliance certificate.
- *Section 4.05 Taxes.* This section currently requires the Company and its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies, except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.
- *Section 4.06 Stay, Extension and Usury Laws.* This section currently limits the ability of the Company and the Guarantors to take advantage of certain defenses to the payment of the Notes, including stay, extension and usury laws.
- *Section 4.07 Restricted Payments.* This section currently restricts the ability of the Company and its Restricted Subsidiaries to make specified Restricted Payments, including, but not limited to, the declaration or payment of dividends, the purchase or redemption of Equity Interests, the purchase or redemption of subordinated Indebtedness and the making of Investments other than Permitted Investments.
- *Section 4.08 Dividend and Other Payment Restrictions Affecting Subsidiaries.* This section currently restricts the Company and its Restricted Subsidiaries from creating or allowing encumbrances or restrictions to exist on any Restricted Subsidiary’s ability to (a) pay dividends or make distributions on its Capital Stock or pay any Indebtedness owed to the Company or its Restricted Subsidiaries, (b) make loans or advances to the Company or its Restricted Subsidiaries, or (c) sell, lease or transfer any of its properties or assets to the Company or its Restricted Subsidiaries.
- *Section 4.09 Incurrence of Indebtedness and Issuance of Preferred Stock.* This section currently restricts the ability of the Company to issue any Disqualified Stock and restricts the ability of the Company and its Restricted Subsidiaries to incur Indebtedness and issue preferred stock.
- *Section 4.10 Asset Sales.* This section currently restricts the ability of the Company and its Restricted Subsidiaries to consummate any Asset Sale.
- *Section 4.11 Transactions with Affiliates.* This section currently restricts the ability of the Company and its Restricted Subsidiaries to engage in transactions with any Affiliates of the Company.
- *Section 4.12 Liens.* This section currently restricts the ability of the Company and its Restricted Subsidiaries to incur or permit to exist Liens on their properties or assets securing any Indebtedness, other than Permitted Liens if payments under the Notes are not on an equal or ratable basis with such liens.
- *Section 4.13 Business Activities.* This section prohibits the Company and its Restricted Subsidiaries from engaging in any business other than the Permitted Business.
- *Section 4.15 Offer to Repurchase Upon a Change of Control.* This section currently requires the Company, upon a Change of Control, to repurchase, at the option of an existing Holder, the existing Holder’s Notes.

- *Section 4.16 No Amendment to Subordination Provision.* This section restricts the Company's ability to amend the Subordinated Note Indenture in any way without the consent of at least a majority of the Holders of the Notes.
- *Section 4.17 Limitation on Sale and Leaseback Transactions.* This section restricts the Company and the Restricted Subsidiaries from entering into any sale and leaseback transaction, unless specific standards are met.
- *Section 4.18 Payments for Consents.* This section requires that the Company or any Restricted Subsidiary offer and pay any consideration used to induce consent, waiver or amendment to a term or provision of the Indenture to all Holders of Notes that consent, waiver or agree to amend.
- *Section 4.19 Limitation on Issuances of Guarantees of Indebtedness.* This section limits the Company and the Restricted Subsidiaries from guaranteeing or pledging any assets to secure the payment of any other Indebtedness of the Company other than for Permitted Liens.
- *Section 4.20 Note Guarantees.* This section requires that if the Company or a Restricted Subsidiary acquires or creates a Domestic Subsidiary then the Company would cause such Domestic Subsidiary to execute a Note Guarantee.
- *Section 4.21 Designation of Restricted and Unrestricted Subsidiaries.* This section currently restricts the Company's ability to designate a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary if such designation would cause a Default.

*Modification of Covenants and Events of Default.* The Proposed Amendments of the Supplemental Indenture would modify the sections summarized below:

*Section 5.01 Merger, Consolidation, or Sale of Assets.* This section would be modified by (a) deleting the requirement that the Company have the ability to incur \$1.00 of additional Indebtedness in connection with a merger, consolidation or sale of all or substantially all of the Company's assets and (b) deleting the restriction that the Company may not lease all or substantially all of its properties or assets in one or more related transactions to another Person.

*Section 6.01 Events of Default.* This section will be modified to delete all subsections, except other than those pertaining to failure to pay principal, premium or interest on the Notes contained in Subsections 6.01(1) and 6.01(2).

The Proposed Amendments will also delete those definitions from the Indenture that are used only in provisions that would be eliminated. Any and all references in the Indenture to the deleted sections or provisions referred to above will also be deleted in their entirety. Any provision contained in the Notes that relates to any provision of the Indenture as amended shall likewise be amended so that any such provision contained in the Notes will conform to and be consistent with any provision of the Indenture as amended.

The remaining sections of the Indenture will not be changed by the Proposed Amendments.

**The foregoing is qualified in its entirety by reference to the Indenture and the form of Second Supplemental Indenture, copies of which may be obtained without charge from the Information Agent or the Company.**

#### **CERTAIN U.S. FEDERAL INCOME TAX CONSIDERATIONS**

**TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, HOLDERS ARE HEREBY NOTIFIED THAT: (I) ANY DISCUSSION OF UNITED STATES FEDERAL INCOME TAX ISSUES IN THIS STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY A HOLDER FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON A HOLDER UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE"); (II) SUCH DISCUSSION IS INCLUDED HEREIN IN SUPPORT OF THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (III) A HOLDER SHOULD SEEK ADVICE BASED ON ITS PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.**

The following summary describes certain U.S. federal income tax consequences of the Offer and the adoption of the Proposed Amendments to Holders of the Notes, but does not purport to be a complete analysis of all the potential tax considerations. This summary is based on current provisions of the Code and Treasury regulations, rulings and judicial decisions, all of which are subject to change (possibly with retroactive effect). No ruling has been or will be sought from the Internal Revenue Service (the "IRS") regarding any tax consequences relating to the matters discussed herein. Consequently, no assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of those summarized below. This summary does not discuss all aspects of U.S. federal income taxation that

may be relevant to particular Holders in light of their individual circumstances and does not deal with Holders subject to special treatment under U.S. federal income tax law, including, without limitation:

- financial institutions;
- insurance companies;
- tax-exempt organizations;
- real estate investment trusts or regulated investment companies;
- dealers in securities, commodities or foreign currencies;
- traders in securities that elect to use a mark-to-market method of accounting for their securities holdings;
- persons holding Notes as part of a hedge, straddle, conversion transaction or other integrated transaction or risk reduction strategy;
- U.S. persons whose functional currency is not the U.S. dollar;
- entities classified as partnerships for U.S. federal income tax purposes and investors therein;
- persons deemed to sell their Notes under the constructive sale provisions of the Code;
- persons subject to the alternative minimum tax; and
- U.S. expatriates and former long-term residents of the United States.

This summary assumes Holders have held their Notes as “capital assets” within the meaning of Section 1221 of the Code (generally, property held for investment). In addition, this summary does not discuss any U.S. federal estate or gift tax laws or the tax laws of any applicable foreign, state, local or other jurisdiction.

**This summary of certain U.S. federal income tax consequences is for general information purposes only and is not tax advice for any particular Holder. Holders should consult their tax advisors concerning the U.S. federal income tax consequences with respect to tendering Notes or the Proposed Amendments in light of their particular situations, as well as any consequences arising under the U.S. federal estate or gift tax laws or the laws of any state, local, foreign or other taxing jurisdiction.**

As used herein, the term “U.S. Holder” means a beneficial owner of a Note that is for U.S. federal income tax purposes:

- (1) An individual who is a citizen or resident of the United States;
- (2) a corporation, or other entity taxable as a corporation, created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- (3) an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- (4) a trust (A) subject to the primary supervision of a U.S. court and the control of one or more U.S. persons over all substantial decisions of the trust or (B) that has made a valid election to be treated as a U.S. person for U.S. federal income tax purposes.

A beneficial owner of a Note that is not a U.S. Holder and is not a partnership or pass-through entity for U.S. federal income tax purposes (“Non-U.S. Holder”) is subject to special U.S. federal income tax considerations, some of which are discussed below.

If an entity treated as a partnership for U.S. federal income tax purposes holds a Note, the tax treatment of a partner will generally depend upon the status of the partner and the activities of the partnership. Entities that are treated as partnerships for U.S. federal income tax purposes and partners in such partnerships holding Notes should consult their tax advisors.

## **U.S. Holders**

### ***Sale of Notes Pursuant to the Offer***

In general, subject to the discussion below of the possible treatment of the Consent Payment as a separate fee, a U.S. Holder who sells a Note pursuant to the Offer (a “Tendering U.S. Holder”) will recognize gain or loss in an amount equal to the difference between the amount realized by the Tendering U.S. Holder in such sale (other than any portion attributable to accrued and unpaid interest with respect to the Note, which will be taxable separately as ordinary interest income to the extent not previously included in gross income) and the Tendering U.S. Holder’s adjusted tax basis in such

Note. A U.S. Holder's adjusted tax basis in a Note generally will be the original cost of the Note to the U.S. Holder increased by all market discount (as defined below) previously included in the U.S. Holder's gross income and decreased (but not below zero) by any amortizable bond premium that the U.S. Holder has previously amortized and by any prior principal or other payments received on the Note other than payments of stated interest. Amortizable bond premium generally is the excess of a U.S. Holder's tax basis in the Note immediately after its purchase over the sum of all amounts payable on the Note after the purchase date other than payments of stated interest (i.e., over the principal amount of the Note).

There is no authority directly addressing the U.S. federal income tax consequences of receiving a payment similar to the Consent Payment. If the Consent Payment is treated as additional consideration for the Note, such a payment would be treated as part of the amount realized by the Tendering U.S. Holder in the sale of the tendered Note and should be taken into account in computing the Tendering U.S. Holder's taxable gain or loss, as discussed above. It is possible, however, that the Consent Payment could be treated as interest or a separate fee for consenting to the Proposed Amendments or for tendering or consenting by an early date, taxable as ordinary income (rather than as sale proceeds). If the Consent Payment were treated as ordinary income, a U.S. Holder who received a Consent Payment and recognized a capital loss on the sale of its Note would generally not be able to offset such ordinary income by the capital loss because the deductibility of capital losses is subject to limitations. Because a U.S. Holder cannot receive a Consent Payment except upon the sale of a Note pursuant to the Offer, the Company intends to take the position that the Consent Payment should be treated as additional consideration received in exchange for the tendered Note. There can be no assurance, however, that the IRS will not take a different position or that any such position, if taken, would not be sustained by a court. U.S. Holders are encouraged to consult their tax advisors as to the proper tax treatment of the Consent Payment.

Subject to the market discount rules described below and the above discussion of the potential treatment of the Consent Payment as an item of ordinary income, a Tendering U.S. Holder's gain or loss will constitute capital gain or loss, which will be long-term capital gain or loss if the Tendering U.S. Holder's holding period for the Note is more than one year at the time of sale. Under current law, long-term capital gains of certain non-corporate taxpayers (including individuals) are eligible for reduced rates of taxation as compared to the rates for ordinary income. The deductibility of capital losses is subject to limitations. Gain or loss will be computed separately for each Note sold by a Tendering U.S. Holder.

In the case of a Tendering U.S. Holder who acquired a Note at a market discount (unless the amount of such market discount was below a statutorily defined *de minimis* amount), any gain recognized upon the sale of the Note will be treated as ordinary income to the extent of the market discount that accrued during the period the Tendering U.S. Holder held the Note, unless the Tendering U.S. Holder previously elected to include such market discount in income as it accrued. Market discount generally equals the excess of the "stated redemption price at maturity" (i.e., the principal amount) of a Note over the Tendering U.S. Holder's initial tax basis in the Note. Market discount will be treated as accruing ratably over the period from the date of the U.S. Holder's acquisition of the Note to the maturity date of the Note or, at the election of the U.S. Holder, on a constant yield basis.

### ***Information Reporting and Backup Withholding***

In general, information reporting requirements will apply to the payment of the Total Consideration or Tender Offer Consideration, as applicable, and any interest to U.S. Holders (other than certain exempt recipients). To avoid backup withholding, a U.S. Holder (other than certain exempt recipients) whose Note is accepted for payment is required to provide the Depository or other payor (such as the U.S. Holder's broker) with the U.S. Holder's correct social security or other taxpayer identification number ("TIN") on IRS Form W-9 (or suitable substitute form), certify under penalties of perjury that the U.S. Holder is not subject to backup withholding, and otherwise comply with applicable requirements of the backup withholding rules. If the U.S. Holder does not provide the payor with the correct social security number or other TIN, the U.S. Holder may be subject to penalties imposed by the IRS, and payments that are made to such U.S. Holder may be subject to backup withholding. Certain U.S. Holders are not subject to these backup withholding requirements but may be required to provide evidence of their exemption from backup withholding. If backup withholding applies, the payor is currently required to withhold 28% (and scheduled to increase to 31% as of January 1, 2011) of any payment made to the U.S. Holder. Backup withholding is not an additional tax; any amounts so withheld may be credited against the U.S. federal income tax liability of the U.S. Holder subject to the withholding. If backup withholding results in an overpayment of U.S. federal income taxes, a refund or credit may be obtained from the IRS if required information is properly furnished in a timely manner.

### ***Retention of Notes***

The U.S. federal income tax consequences to U.S. Holders that retain Notes after the adoption of the Proposed Amendments depend, in part, upon whether, for U.S. federal income tax purposes, adoption of the Proposed Amendments constitutes a “significant modification” of the Notes retained by such Holders and, if so, whether the resulting deemed exchange (the “Deemed Exchange”) of new notes (the “New Notes”) for the original Notes constitutes a recapitalization for U.S. federal income tax purposes.

Generally, the modification of a debt instrument is a significant modification if, among other things, based on all the facts and circumstances, and considering certain modifications of the debt instrument collectively, the modification effects an alteration of the legal rights or obligations under such instrument in a manner that is “economically significant.” The Treasury regulations, however, provide that the addition, deletion or alteration of customary accounting or financial covenants relating to a debt instrument does not give rise to a significant modification of the debt instrument. It is not clear whether the Proposed Amendments would result in only the deletion or alteration of customary accounting or financial covenants within the meaning of those Treasury regulations, nor is it clear whether the legal rights or obligations that would be altered, and the degree to which they would be altered, upon the adoption of the Proposed Amendments would be economically significant and therefore constitute a significant modification. Accordingly, it is unclear whether the adoption of the Proposed Amendments will be deemed to result in a significant modification, and thus a Deemed Exchange, of the Notes.

If the adoption of the Proposed Amendments did not result in a significant modification, the adoption of such amendments would not constitute a taxable event, and the modified Notes would be treated as a mere continuation of the original Notes for U.S. federal income tax purposes. If the adoption of the Proposed Amendments constituted a significant modification of the Notes, it would be a taxable event for U.S. federal income tax purposes unless the resulting Deemed Exchange qualified as a recapitalization for U.S. federal income tax purposes. The Company does not believe the adoption of the Proposed Amendments will be economically significant within the meaning of the Treasury regulations, and therefore intends to take the position that the adoption of the Proposed Amendments will not result in a significant modification, or Deemed Exchange, of the Notes. There can be no assurance, however, that the IRS will not take a different position or that any such position, if taken, would not be sustained by a court. U.S. Holders retaining Notes are encouraged to consult their tax advisors regarding the consequences to them of the adoption of the Proposed Amendments.

The Company reserves the right to redeem any Notes that remain outstanding following the completion of the Offer. Accordingly, a U.S. Holder that does not tender its Note and has its Note redeemed by the Company following consummation of the Offer would generally recognize gain or loss on the redemption of the Note in the same manner as described above under “— Sale of Notes Pursuant to the Offer.”

### **Non-U.S. Holders**

#### ***Sale of Notes Pursuant to the Offer; Retention of Notes***

A Non-U.S. Holder that realizes gain, either in connection with the sale of a Note pursuant to the Offer (or pursuant to a redemption following completion of the Offer) or as a result of a deemed taxable exchange of a Note for a New Note for U.S. federal income tax purposes (if the adoption of the Proposed Amendments, as described above under “U.S. Holders — Retention of Notes,” results in a deemed taxable exchange to a non-tendering Non-U.S. Holder), generally will not be subject to U.S. federal income tax or withholding tax on such gain unless (i) such Non-U.S. Holder is an individual who is present in the United States for 183 days or more in the taxable year of the sale or deemed taxable exchange and certain conditions are met or (ii) such gain is effectively connected with the conduct by the Non-U.S. Holder of a trade or business in the United States and, if certain U.S. income tax treaties apply, is attributable to a permanent establishment maintained in the United States by the Non-U.S. Holder (in which case the Non-U.S. Holder will generally be subject to U.S. federal income tax on such gain on a net income basis in the same manner as if it were a U.S. Holder and, if the Non-U.S. Holder is a foreign corporation, it may be subject to an additional branch profits tax equal to 30% — or such lower rate provided by an applicable U.S. income tax treaty — of its effectively connected earnings and profits for the taxable year, subject to adjustments).

Any portion of a payment attributable to accrued but unpaid interest on a Note to a Non-U.S. Holder will not be subject to U.S. federal income tax or withholding tax, provided that (i) such Non-U.S. Holder does not own, actually or constructively, 10% or more of the Company’s voting stock, (ii) such Non-U.S. Holder is not a “controlled foreign corporation” with respect to which the Company is a “related person,” (iii) such interest is not effectively connected with

the conduct by such Non-U.S. Holder of a trade or business in the United States, or, if certain U.S. income tax treaties apply, is so connected but is not attributable to a permanent establishment maintained in the United States by the Non-U.S. Holder and (iv) the Non-U.S. Holder certifies, under penalties of perjury, to the payor that it is not a U.S. person and provides its name, address and TIN, if applicable, on IRS Form W-8BEN or otherwise satisfies the applicable identification requirements.

Any portion of a payment attributable to accrued but unpaid interest on a Note to a Non-U.S. Holder that is not excluded from U.S. federal income tax and withholding tax, as described above, generally will be subject to U.S. withholding tax at a 30% rate, except where an applicable U.S. income tax treaty provides for the reduction or elimination of such withholding tax, or where the interest is effectively connected with the conduct by the Non-U.S. Holder of a trade or business within the United States. In such case, the Non-U.S. Holder will be required to provide the payor with a properly executed IRS Form W-8BEN or IRS Form W-8ECI, as applicable, in order to claim a treaty-based reduced rate or an exemption from withholding.

If a Non-U.S. Holder is engaged in a trade or business in the United States and if any accrued but unpaid interest on a Note is effectively connected with the conduct of such trade or business (and, if certain U.S. income tax treaties apply, is attributable to a permanent establishment maintained by the Non-U.S. Holder in the United States), the Non-U.S. Holder, although exempt from U.S. federal withholding tax, will generally be subject to U.S. federal income tax on such interest on a net income basis in the same manner as if it were a U.S. Holder. In addition, if a Non-U.S. Holder engaged in a trade or business in the United States is a foreign corporation, it may be subject to an additional branch profits tax equal to 30% (or such lower rate provided by an applicable U.S. income tax treaty) of its effectively connected earnings and profits for the taxable year, subject to adjustments.

The tax treatment of the receipt of a Consent Payment by a Non-U.S. Holder that sells a Note pursuant to the Offer is unclear because there are no authorities that directly address the treatment of such a payment. Any amount received by a Non-U.S. Holder on retirement of a debt instrument is generally treated as being received in exchange for the debt instrument. If the Consent Payment is treated as additional consideration for the Note, such a payment would be treated as part of the total consideration received in exchange for the tendered Note and treated in the manner described above under “— Sale of Notes Pursuant to the Offer; Retention of Notes.” Because a Non-U.S. Holder cannot receive a Consent Payment except upon the sale of a Note pursuant to the Offer, the Company intends to take the position that the Consent Payment should be treated as additional consideration received in exchange for the tendered Note. There can be no assurance, however, that the IRS will not take a different position or that any such position, if taken, would not be sustained by a court. Non-U.S. Holders are encouraged to consult their tax advisors as to the proper tax treatment of the Consent Payment.

### ***Information Reporting and Backup Withholding***

Backup withholding generally will not apply to the payment of the Total Consideration or Tender Offer Consideration, as applicable, made to a Non-U.S. Holder in respect of a Note if such Non-U.S. Holder furnishes the payor with appropriate documentation of such Holder’s Non-U.S. Holder status (generally on IRS Form W-8BEN). Any amounts withheld under the backup withholding rules from a payment to a Non-U.S. Holder will be allowed as a refund or a credit against such Non-U.S. Holder’s U.S. federal income tax liability, provided that the requisite procedures are followed.

THE PRECEDING SUMMARY IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE. A HOLDER SHOULD CONSULT THE HOLDER’S TAX ADVISORS CONCERNING THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE OFFER AND SOLICITATION AND THE ADOPTION OF THE PROPOSED AMENDMENTS TO THE INDENTURE IN LIGHT OF THE HOLDER’S PARTICULAR SITUATION, AS WELL AS ANY CONSEQUENCES ARISING UNDER U.S. ESTATE AND GIFT LAWS OR THE LAWS OF ANY OTHER TAXING JURISDICTION.

### **DEALER MANAGER AND SOLICITATION AGENT; INFORMATION AGENT; DEPOSITARY**

In connection with the Offer and the Solicitation, the Company has retained RBC Capital Markets, LLC to act on its behalf as Dealer Manager and Solicitation Agent, Georgeson Inc. to act as the Information Agent and Wells Fargo Bank, National Association to act as the Depositary, each of which will receive customary fees for its services. The Company has agreed to reimburse each of the Dealer Manager and Solicitation Agent, the Information Agent and the Depositary for its

respective out-of-pocket expenses and to indemnify it against certain liabilities, including liabilities under federal securities laws. In connection with the Offer and the Solicitation, the Company will also pay brokerage houses and other custodians, Nominees and fiduciaries the reasonable out-of-pocket expenses incurred by them in forwarding copies of this Statement and related documents to the beneficial owners of the Notes and in handling or forwarding tenders of Notes and Consents by their customers.

Any Holder that has questions concerning the terms of the Offer and/or the Solicitation may contact the Dealer Manager and Solicitation Agent at the address and telephone number set forth on the back cover of this Statement. Questions and requests for assistance or additional copies of this Statement or the Letter of Transmittal may be directed to the Information Agent at its address and telephone number set forth on the back cover of this Statement. Holders of Notes may also contact their Nominees for assistance concerning the Offer and/or the Solicitation.

Letters of Transmittal and all correspondence in connection with the Offer and the Solicitation should be sent or delivered to the Depository at its address or to the facsimile number set forth on the back cover of this Statement. Any Holder or beneficial owner that has questions concerning tender or consent procedures should contact the Depository at its address and telephone numbers set forth on the back cover of this Statement.

The Dealer Manager and Solicitation Agent may contact Holders of Notes regarding the Offer and/or the Solicitation and may request Nominees to forward this Statement and related materials to beneficial owners of Notes.

The Dealer Manager and Solicitation Agent and its affiliates have from time to time provided certain commercial banking, financial advisory and investment banking services to the Company and its affiliates for which they have received customary fees. In the ordinary course of its business, the Dealer Manager and Solicitation Agent or its affiliates may at any time hold long or short positions, and may trade for their own account or the accounts of customers, in the debt or equity securities of the Company, including the Notes and, to the extent that the Dealer Manager and Solicitation Agent or its affiliates own Notes during the Offer and Solicitation, they may tender such Notes and related Consents pursuant to the terms of the Offer and the Solicitation. The Dealer Manager and Solicitation Agent and their affiliates may from time to time in the future engage in future transactions with the Company and its affiliates and provide services to the Company and its affiliates in the ordinary course of its business.

None of the Trustee, the Dealer Manager and Solicitation Agent, the Information Agent or the Depository assumes any responsibility for the accuracy or completeness of the information concerning the Company contained in this Statement or for any failure by the Company to disclose events that may have occurred and may affect the significance or accuracy of such information.

#### **MISCELLANEOUS**

No person has been authorized to give any information or make any representations other than those contained herein or in the Letter of Transmittal, and, if given or made, such information or representations must not be relied upon as having been authorized by the Company, the Trustee, the Dealer Manager and Solicitation Agent, the Information Agent, the Depository or any other person. The statements made in this Statement are made as of the date on the cover page of this Statement. The delivery of this Statement and the Letter of Transmittal shall not, under any circumstances, create any implication that the information contained herein is correct as of a later date.

Recipients of this Statement and the Letter of Transmittal should not construe the contents hereof or thereof as legal, business or tax advice. Each recipient should consult its own attorney, business advisor and tax advisor as to legal, business, tax and related matters concerning the Offer and the Solicitation.

*The Depository for the Offer and the Solicitation is:*

**Wells Fargo Bank, N.A.**

*By facsimile:*

*(For Eligible Institutions only):*

(612) 667-6282

*For Information:*

(800) 344-5128

(Attn: Bondholder Communications)

*By Registered or Certified Mail:*

Wells Fargo Bank, N.A.

Corporate Trust Operations

P.O. Box 1517

Minneapolis, MN 55480-1517

*By Overnight Courier or By Hand:*

Wells Fargo Bank, N.A.

Corporate Trust Operations

N9303-121

6<sup>th</sup> & Marquette Avenue

Minneapolis, MN 55479

Any questions regarding procedures for tendering Notes or requests for additional copies of this Statement, the Letter of Transmittal or other materials should be directed to the Information Agent at the telephone numbers and address listed below.

**Georgeson Inc.**

199 Water Street, 26<sup>th</sup> Floor

New York, NY 10038

Banks and Brokers, please call (212) 440-9800

Toll Free: (800) 267-4403

Any questions regarding the terms of this Offer and the Solicitation should be directed to the Dealer Manager and Solicitation Agent.

*The Dealer Manager and Solicitation Agent for the Offer and the Solicitation is:*

**RBC Capital Markets, LLC**

Attn: Liability Management Group

Three World Financial Center

200 Vesey Street, 8<sup>th</sup> Floor

New York, NY 10281-8098

(212) 618-7822

Toll Free: 1-877-381-2099