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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, DC 20549

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**FORM 8-K**

**CURRENT REPORT**  
**Pursuant to Section 13 or 15(d) of the**  
**Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported) **March 8, 2012**

**BALL CORPORATION**  
(Exact name of Registrant as Specified in Charter)

**Indiana**  
(State or Other Jurisdiction  
of Incorporation)

**001-07349**  
(Commission  
File Number)

**35-0160610**  
(IRS Employer  
Identification No.)

**10 Longs Peak Drive, P.O. Box 5000, Broomfield, Colorado**  
(Address of Principal Executive Offices)

**80021-2510**  
(Zip Code)

Registrant's telephone number, including area code **(303) 469-3131**

**Not Applicable**  
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 1.01 Entry Into a Material Definitive Agreement.**

On March 9, 2012, Ball Corporation (the "Company") completed the sale (the "Offering") of \$750,000,000 in aggregate principal amount of 5% senior notes due 2022 (the "2022 Notes"). The Notes were offered and sold under a prospectus, dated February 24, 2012, within the Company's shelf registration statement on Form S-3 (Registration No. 333-179639).

The public offering price of the 2022 Notes was 100.000% of the principal amount. The Company is using a portion of the net proceeds from the offering to pay the consideration in connection with the Company's previously announced tender offer to purchase for cash any and all of the Company's 6 5/8% senior notes due 2018 (the "2018 Notes"), together with related expenses (the "Tender Offer"), and the balance for general corporate purposes, which may include potential investments in strategic alliances and acquisitions, the refinancing or repayment of debt, working capital, share repurchases, pension contributions or capital expenditures.

The 2022 Notes were issued under an Indenture, dated March 27, 2006 (the "Base Indenture"), between the Company and The Bank of New York Mellon Trust Company, N.A. (successor to The Bank of New York Mellon (formerly known as The Bank of New York)), as trustee (the "Trustee"), as supplemented by a Seventh Supplemental Indenture, dated March 9, 2012, among the Company, the subsidiary guarantors (the "Guarantors") and the Trustee (the "Seventh Supplemental Indenture" and, together with the Base Indenture, the "Indenture"). The Indenture and the form of note, which is attached as an exhibit to the Indenture, provide, among other things, that the 2022 Notes will be senior unsecured obligations of the Company.

Interest is payable on the 2022 Notes on March 15 and September 15 of each year beginning on September 15, 2012 until their maturity date of March 15, 2022. The Company may redeem the 2022 Notes at any time in whole, or from time to time in part, at its option at a price equal to the greater of 100% of the principal amount of the 2022 Notes redeemed and the sum of the remaining scheduled payments of principal and interest on such notes discounted to the date of redemption (excluding interest accrued to the date of redemption), on a semiannual basis, at a rate equal to the sum of the Treasury Rate plus 50 basis points, plus in each case, accrued and unpaid interest, if any, to but excluding the redemption date.

The Company's payment obligations under the 2022 Notes are fully and unconditionally guaranteed on an unsecured senior basis by certain of its current domestic subsidiaries (and will be guaranteed by certain of its future domestic subsidiaries), other than certain excluded subsidiaries. The 2022 Notes are not guaranteed by any of the Company's foreign subsidiaries.

Subject to certain limitations, in the event of a change of control of the Company, the Company will be required to make an offer to purchase the 2022 Notes at a price equal to 101% of the principal amount of the 2022 Notes, plus accrued and unpaid interest to the date of repurchase.

The Indenture provides for customary events of default which include (subject in certain cases to customary grace and cure periods), among others, nonpayment of principal or interest; breach of other agreements in the Indenture; defaults in failure to pay certain other indebtedness; the failure to pay certain final judgments; the failure of certain guarantees to be enforceable; and certain events of bankruptcy or insolvency. Generally, if an event of default occurs, the Trustee or the holders of at least 25% in aggregate principal amount of the then outstanding 2022 Notes may declare all the 2022 Notes to be due and payable immediately.

As previously reported, on February 24, 2012, the Company entered into an underwriting agreement with Merrill Lynch, Pierce, Fenner & Smith Incorporated, as representative of the underwriters named therein, in connection with the Offering.

On March 9, 2012, the Company also announced that it had received the requisite consents in the Tender Offer to enter into a sixth supplemental indenture (the "Sixth Supplemental Indenture") dated March 8, 2012, among the Company, the Guarantors party thereto and the Trustee, which is filed herewith as Exhibit 4.2 and incorporated herein by reference. The Sixth Supplemental Indenture eliminates substantially all of the restrictive covenants, certain events of default and certain other provisions related to the 2018 Notes. As of 5:00 p.m., New York City time, on March 8, 2012 (the "Consent Deadline"), \$392,683,000 aggregate principal amount of the 2018 Notes were tendered (representing approximately 87.3% of the outstanding 2018 Notes). The Company

2

exercised its option to accept for payment and settle the Tender Offer with respect to the 2018 Notes that were validly tendered at or prior to the Consent Deadline (the "Initial Acceptance Date"). Such Initial Acceptance Date occurred on March 9, 2012, concurrently with the closing of the Offering and the Sixth Supplemental Indenture became operative at that time. The Tender Offer will expire at 9:00 a.m., New York City time, on March 23, 2012 unless the Tender Offer is extended or earlier terminated.

A copy of the Base Indenture is incorporated by reference as Exhibit 4.1, and copies of the Sixth Supplemental Indenture and the Seventh Supplemental Indenture are attached hereto as Exhibits 4.2 and 4.3 to this Current Report on Form 8-K, respectively, and are incorporated by reference herein. The above description of the material terms of the Indenture, the Sixth Supplemental Indenture, the Seventh Supplemental Indenture and the 2022 Notes does not purport to be complete and is qualified in its entirety by reference to such Exhibits.

**Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The information set forth in Item 1.01 above with respect to the 2022 Notes, the Indenture and the Seventh Supplemental Indenture is hereby incorporated by reference into this Item 2.03, insofar as it relates to the creation of a direct financial obligation.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits.

Exhibit Number	Description
4.1	Indenture, dated March 27, 2006, between Ball Corporation and The Bank of New York Mellon Trust Company, N.A. (successor to The Bank of New York Mellon (formerly known as The Bank of New York)) (incorporated by reference to the Current Report on Form 8-K dated March 27, 2006) filed March 30, 2006.
4.2	Sixth Supplemental Indenture, dated March 8, 2012, among Ball Corporation, the guarantors named therein and The Bank of New York Mellon Trust Company, N.A. (successor to The Bank of New York Mellon (formerly known as The Bank of New York)).
4.3	Seventh Supplemental Indenture, dated March 9, 2012, among Ball Corporation, the guarantors named therein and The Bank of New York Mellon Trust Company, N.A. (successor to The Bank of New York Mellon (formerly known as The Bank of New York)).
4.4	Form of Ball Corporation's 5% Senior Note due 2022 (included in Exhibit 4.3 hereto).
5.1	Opinion of Charles E. Baker.
5.2	Opinion of Robert W. McClelland.
5.3	Opinion of Skadden, Arps, Slate, Meagher & Flom LLP.
23.1	Consent of Charles E. Baker (included as part of Exhibit 5.1 hereto).
23.2	Consent of Skadden, Arps, Slate, Meagher & Flom LLP (included as part of Exhibit 5.3 hereto).

3

**SIGNATURES**

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

Dated: March 9, 2012

BALL CORPORATION

By: /s/ Charles E. Baker  
Name: Charles E. Baker  
Title: Vice President, General Counsel and Corporate Secretary

4

## EXHIBIT INDEX

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23.2	Consent of Skadden, Arps, Slate, Meagher & Flom LLP (included as part of Exhibit 5.3 hereto).

## BALL CORPORATION

and

GUARANTORS  
Parties hereto

6 5/8% SENIOR NOTES DUE 2018

## SIXTH SUPPLEMENTAL INDENTURE

dated as of March 8, 2012

To

## INDENTURE

dated as of March 27, 2006

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.  
(formerly known as The Bank of New York Trust Company, N.A.)

as Trustee

**THIS SIXTH SUPPLEMENTAL INDENTURE** (the "Sixth Supplemental Indenture"), dated as of March 8, 2012, among Ball Corporation, an Indiana corporation (the "Company"), each of the subsidiary guarantors of the Company listed on Schedule I hereto (the "Guarantors") and The Bank of New York Mellon Trust Company, N.A. (formerly known as The Bank of New York Trust Company, N.A.), a national banking association, as trustee (the "Trustee").

## WITNESSETH:

**WHEREAS**, the Company, the Guarantors and the Trustee have executed and delivered an indenture dated as of March 27, 2006, as amended by the First Supplemental Indenture thereto, dated as of March 27, 2006 (together, the "Indenture"), pursuant to which the Company has issued its 6 5/8% Senior Notes due 2018 (the "Notes");

**WHEREAS**, Section 9.02 of the Indenture provides that, subject to certain conditions, the Company, the Guarantors and the Trustee may amend the Indenture or the Notes with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding;

**WHEREAS**, the Company and each of the Guarantors are undertaking to execute and deliver this Sixth Supplemental Indenture to amend certain terms and covenants in the Indenture in connection with the Offer to Purchase and Consent Solicitation Statement of the Company, dated as of February 24, 2012, and any amendments, modifications or supplements thereto (the "Tender Offer and Solicitation"); and

**WHEREAS**, the Board of Directors of the Company and the Boards of Directors or Boards of Managers of the Guarantors have authorized and approved the execution and delivery of this Sixth Supplemental Indenture.

**NOW, THEREFORE**, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company, the Guarantors and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

## ARTICLE I

## CAPITALIZED TERMS

Section 1.01 Amendments to the Indenture. Capitalized terms used herein but not defined shall have the meanings assigned to them in the Indenture.

## ARTICLE II

## AMENDMENTS AND WAIVERS

Section 2.01 Amendments to the Indenture. Effective at the time of payment or deposit with DTC (the "Payment Date") of an amount of money sufficient to pay for all Notes validly tendered and accepted pursuant to the Tender Offer and Solicitation (or at least a majority of outstanding Notes if payment is being made pursuant to any early settlement under the Tender Offer and Solicitation) and to make all consent payments required under the Tender Offer and Solicitation:

- (i) The Indenture is hereby amended to delete in their entirety Section 3.09 (Offer to Purchase by Application of Excess Proceeds), Section 4.05 (Taxes), Section 4.06 (Stay, Extension and Usury Laws), Section 4.07 (Restricted Payments), Section 4.08 (Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries), Section 4.09 (Incurrence of Indebtedness and Issuance of Disqualified and Preferred Stock), Section 4.10 (Asset Sales), Section 4.11 (Transactions With Affiliates), Section 4.12 (Liens), Section 4.13 (Business Activities), Section 4.15 (Offer to Purchase Upon Change of Control), Section

4.16 (Additional Guarantees), Section 4.17 (Payment for Consents), Section 4.18 (Sale and Leaseback Transactions), Section 4.19 (Designation of Restricted and Unrestricted Subsidiaries), Section 4.20 (Certain Covenants to be Suspended after a Change of Control), clauses (iii) and (iv) of Section 5.01 (which impose certain limitations on mergers, consolidations and other transactions) and clauses (d), (f) and (g) of Section 6.01 (which provide for certain Events of Default); and

- (ii) The Notes are hereby deemed to be amended to delete all provisions inconsistent with the amendments to the Indenture effected by this Sixth Supplemental Indenture.
- (iii) All definitions set forth in Section 1.01 of the Indenture that relate to defined terms used solely in sections deleted by this Supplemental Indenture are hereby deleted in their entirety; and
- (iv) All references to Sections 5.01 and 6.01 of the Indenture shall mean Sections 5.01 and 6.01 as amended by this Sixth Supplemental Indenture.

### ARTICLE III

#### MISCELLANEOUS

##### Section 3.01 Ratification of Indenture; Sixth Supplemental Indenture Part of Indenture.

- (i) Except as expressly supplemented hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Sixth Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of the Notes heretofore or hereafter authenticated and delivered shall be bound hereby. In the event of a conflict between the terms and conditions of the Indenture and the terms and conditions of

3

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this Sixth Supplemental Indenture, then the terms and conditions of this Sixth Supplemental Indenture shall prevail.

- (ii) The Notes include certain of the foregoing provisions from the Indenture. Upon the operative date of this Sixth Supplemental Indenture, such provisions from the Notes shall be deemed deleted or amended as applicable.
- (iii) Notwithstanding an earlier execution date, the provisions of this Sixth Supplemental Indenture shall not become operative until the time and date upon which the Company pays the Consent Payment (as such term is defined in the Tender Offer and Consent Solicitation) to all Holders who have validly delivered and not validly revoked consents pursuant to the terms of the Tender Offer and Consent Solicitation (which may be made on an early settlement date).

##### Section 3.02 Governing Law.

THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SIXTH SUPPLEMENTAL INDENTURE WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

##### Section 3.03 Trustee Makes No Representation.

The recitals contained herein are those of the Company and the Guarantors and not the Trustee, and the Trustee assumes no responsibility for the correctness of same. The Trustee makes no representations as to the validity or sufficiency of this Sixth Supplemental Indenture. All rights, protections, privileges, indemnities and benefits granted or afforded to the Trustee under the Indenture shall be deemed incorporated herein by this reference and shall be deemed applicable to all actions taken, suffered or omitted by the Trustee under this Sixth Supplemental Indenture.

##### Section 3.04 Counterparts.

The parties may sign any number of copies of this Sixth Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

##### Section 3.05 Effect of Headings.

The section headings herein are for convenience only and shall not effect the construction thereof.

##### Section 3.06 Severability.

In case any one or more of the provisions in this Sixth Supplemental Indenture shall be held invalid, illegal or unenforceable in any jurisdiction, in any respect for any reason, the validity, legality and enforceability of any such provision in every other jurisdiction and in

4

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every other respect, and of the remaining provisions, shall not in any way be affected or impaired thereby, it being intended that all of the provisions hereof shall be enforceable to the full extent permitted by law.

##### Section 3.07 Successors and Assigns.

All covenants and agreements in this Sixth Supplemental Indenture by the Company and the Guarantors shall bind their respective successors and assigns. All covenants and agreements in this Sixth Supplemental Indenture by the Trustee shall bind its successor and assigns.

5

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IN WITNESS WHEREOF, the parties hereto have caused this Sixth Supplemental Indenture to be duly executed as of the date first written above.

**BALL CORPORATION**

By: /s/ Charles E. Baker

Name: Charles E. Baker

Title: Vice President, General Counsel and Corporate Secretary

Ball Aerosol and Specialty Container Holding Corporation

Ball Aerosol and Specialty Container Inc.

Ball Metal Beverage Container Corp.

Ball Metal Food Container Corp.

Ball Packaging Corp.

Latas de Aluminio Ball, Inc.

USC May Verpackungen Holding Inc.

Ball Advanced Aluminum Technologies Corp.

Ball Aerospace & Technologies Corp.

Ball Technologies Holdings Corp.

Ball Holdings Corp.

By: /s/ Jeff A. Knobel

Name: Jeff A. Knobel

Title: Treasurer

Ball Corporation, a Nevada corporation

Ball Glass Containers, Inc.

Ball Plastic Container Corp.

Ball Container LLC

Ball Holdings LLC

By: /s/ Charles E. Baker

Name: Charles E. Baker

Title: President and Secretary

[Sixth Supplemental Indenture]

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Ball Metal Food Container, LLC

Ball Metal Container Corporation

By: /s/ Charles E. Baker

Name: Charles E. Baker

Title: Secretary

Ball Pan-European Holdings, Inc.

By: /s/ Charles E. Baker

Name: Charles E. Baker

Title: Assistant Secretary

Ball Delaware Holdings, LLC

Ball Asia Services Limited

By: /s/ Charles E. Baker

Name: Charles E. Baker

Title: Vice President and Secretary

[Sixth Supplemental Indenture]

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**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee**

By: /s/ Alex Briffett

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Name: John A. (Alex) Briffett  
Title: Authorized Signatory

[Sixth Supplemental Indenture]

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**Schedule I**

**GUARANTORS**

Ball Aerosol and Specialty Container Holding Corporation

Ball Aerospace & Technologies Corp.

Ball Delaware Holdings, LLC

Ball Metal Beverage Container Corp.

Ball Metal Food Container Corp.

Ball Metal Food Container, LLC

Ball Packaging Corp.

Ball Pan-European Holdings, Inc.

Ball Plastic Container Corp.

Ball Technologies Holdings Corp.

Latas de Aluminio Ball, Inc.

Ball Aerosol and Specialty Container Inc.

Ball Asia Services Limited

Ball Container LLC

Ball Corporation

Ball Glass Containers, Inc.

Ball Holdings Corp.

Ball Holdings LLC

Ball Metal Container Corporation

USC May Verpackungen Holding Inc.

Ball Advanced Aluminum Technologies Corp.

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**BALL CORPORATION**

And

**GUARANTORS**

Parties Hereto

\$750,000,000

**5% SENIOR NOTES DUE 2022****SEVENTH SUPPLEMENTAL INDENTURE**

Dated as of March 9, 2012

To

**INDENTURE**

Dated as of March 27, 2006

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.**  
**(f/k/a The Bank of New York Trust Company, N.A.)**

Trustee

**CROSS-REFERENCE TABLE\***

Trust Indenture Act Section Indenture Section	Supplemental
310(a)(1)	7.10
(a)(2)	7.10
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	7.10
(b)	7.10
(c)	N.A.
311(a)	7.11
(b)	7.11
(c)	N.A.
312(a)	2.05
(b)	12.03
(c)	12.03
313(a)	7.06
(b)(2)	7.06; 7.07
(c)	7.06; 12.02
(d)	7.06
314(a)	4.03; 12.05
(b)	N.A.
(c)(1)	N.A.
(c)(2)	N.A.
(c)(3)	N.A.
(e)	12.05
(f)	N.A.
315(a)	N.A.
(b)	7.05, 12.02
(c)	N.A.
(d)	N.A.
(e)	N.A.
316(a) (last sentence)	2.09
(a)(1)(A)	6.05
(a)(1)(B)	6.04
(a)(2)	N.A.
(b)	6.07
(c)	2.12
317(a)(1)	N.A.
(a)(2)	N.A.
(b)	N.A.
318(a)	N.A.
(b)	N.A.
(c)	12.01



N.A. means not applicable.

\*This Cross-Reference Table is not part of this Supplemental Indenture.

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## TABLE OF CONTENTS

### ARTICLE 1. DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01	Definitions	1
Section 1.02	Other Definitions	12
Section 1.03	Incorporation by Reference of Trust Indenture Act	12
Section 1.04	Rules of Construction	12
Section 1.05	Relationship with Base Indenture	13

### ARTICLE 2. THE NOTES

Section 2.01	Form and Dating	13
Section 2.02	Execution and Authentication	14
Section 2.03	Registrar and Paying Agent	14
Section 2.04	Paying Agent to Hold Money in Trust	14
Section 2.05	Holder Lists	15
Section 2.06	Transfer and Exchange	15
Section 2.07	Replacement Notes	18
Section 2.08	Outstanding Notes	18
Section 2.09	Treasury Notes	19
Section 2.10	Temporary Notes	19
Section 2.11	Cancellation	19
Section 2.12	Defaulted Interest	19
Section 2.13	CUSIP Number	19
Section 2.14	Issuance of Additional Notes	20

### ARTICLE 3. REDEMPTION AND PREPAYMENT

Section 3.01	Notice to Trustee	20
Section 3.02	Selection of Notes to Be Redeemed	20
Section 3.03	Notice of Redemption	21
Section 3.04	Effect of Notice of Redemption	21
Section 3.05	Deposit of Redemption Price	21
Section 3.06	Notes Redeemed in Part	22
Section 3.07	Optional Redemption	22
Section 3.08	Mandatory Redemption	23

### ARTICLE 4. COVENANTS

Section 4.01	Payment of Notes	23
Section 4.02	Maintenance of Office or Agency	23
Section 4.03	Reports	24
Section 4.04	Compliance Certificate	24
Section 4.05	Taxes	25
Section 4.06	Stay, Extension and Usury Laws	25
Section 4.07	Limitation on Liens	25
Section 4.08	Corporate Existence	25
Section 4.09	Offer to Purchase Upon Change of Control	26
Section 4.10	Additional Guarantees	27
Section 4.11	Sale and Leaseback Transactions	27

### ARTICLE 5. SUCCESSORS

Section 5.01	Merger, Consolidation or Sale of Assets	27
Section 5.02	Successor Corporation Substituted	28

### ARTICLE 6. DEFAULTS AND REMEDIES

Section 6.01	Events of Default	28
Section 6.02	Acceleration	29
Section 6.03	Other Remedies	30
Section 6.04	Waiver of Past Defaults	30

Section 6.05	Control by Majority	30
Section 6.06	Limitation on Suits	30
Section 6.07	Rights of Holders of Notes to Receive Payment	31
Section 6.08	Collection Suit by Trustee	31
Section 6.09	Trustee May File Proofs of Claim	31
Section 6.10	Priorities	31
Section 6.11	Undertaking for Costs	32

## ARTICLE 7. TRUSTEE

Section 7.01	Duties of Trustee	32
Section 7.02	Rights of Trustee	33
Section 7.03	Individual Rights of Trustee	34
Section 7.04	Trustee's Disclaimer	34
Section 7.05	Notice of Defaults	34
Section 7.06	Reports by Trustee to Holders of the Notes	34
Section 7.07	Compensation and Indemnity	35
Section 7.08	Replacement of Trustee	35
Section 7.09	Successor Trustee by Merger, Etc.	36
Section 7.10	Eligibility; Disqualification	36
Section 7.11	Preferential Collection of Claims Against Company	36
Section 7.12	Trustee's Application for Instructions from the Company	36

## ARTICLE 8. LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01	Option to Effect Legal Defeasance or Covenant Defeasance	37
Section 8.02	Legal Defeasance and Discharge	37
Section 8.03	Covenant Defeasance	37
Section 8.04	Conditions to Legal or Covenant Defeasance	38
Section 8.05	Deposited Money and Government Securities to Be Held in Trust; Other Miscellaneous Provisions	38
Section 8.06	Repayment to Company	39
Section 8.07	Reinstatement	39

## ARTICLE 9. AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01	Without Consent of Holders of Notes	39
Section 9.02	With Consent of Holders of Notes	40
Section 9.03	Compliance With Trust Indenture Act	41
Section 9.04	Revocation and Effect of Consents	41
Section 9.05	Notation on or Exchange of Notes	42
Section 9.06	Trustee to Sign Amendments, Etc.	42

ii

## ARTICLE 10. NOTE GUARANTEES

Section 10.01	Guarantee	42
Section 10.02	Limitation on Guarantor Liability	43
Section 10.03	Execution and Delivery of Guarantee	43
Section 10.04	Guarantors May Consolidate, etc. on Certain Terms	43
Section 10.05	Releases Following Sale of Assets, Etc.	44

## ARTICLE 11. SATISFACTION AND DISCHARGE

Section 11.01	Satisfaction and Discharge	44
---------------	----------------------------	----

## ARTICLE 12. MISCELLANEOUS

Section 12.01	Trust Indenture Act Controls	45
Section 12.02	Notices	45
Section 12.03	Communication by Holders of Notes with Other Holders of Notes	46
Section 12.04	Certificate and Opinion as to Conditions Precedent	46
Section 12.05	Statements Required in Certificate and Opinion	47
Section 12.06	Rules by Trustee and Agents	47
Section 12.07	Calculation of Foreign Currency Amounts	47
Section 12.08	No Personal Liability of Directors, Officers, Employees and Stockholders	47
Section 12.09	Governing Law; Waiver of Jury Trial	47
Section 12.10	Force Majeure	48
Section 12.11	No Adverse Interpretation of Other Agreements	48
Section 12.12	Successors	48
Section 12.13	Severability	48
Section 12.14	Counterpart Originals	48

## EXHIBITS

Exhibit A	FORM OF NOTE
Exhibit B	FORM OF NOTATION OF GUARANTEE
Exhibit C	FORM OF SUPPLEMENTAL INDENTURE TO BE DELIVERED BY SUBSEQUENT GUARANTORS

SEVENTH SUPPLEMENTAL INDENTURE dated as of March 9, 2012 by and among Ball Corporation, an Indiana corporation (the “*Company*”), the Guarantors (as defined below) and The Bank of New York Mellon Trust Company, N.A. (f/k/a The Bank of New York Trust Company, N.A.), a national banking association, as trustee (the “*Trustee*”).

The Company has heretofore executed and delivered to the Trustee an indenture, dated as of March 27, 2006 (the “*Base Indenture*”) providing for the issuance from time to time of one or more series of the Company’s securities.

The Company and the Guarantors desire and have requested the Trustee pursuant to Section 9.1 of the Base Indenture to join with them in the execution and delivery of this Supplemental Indenture in order to supplement the Base Indenture to the extent set forth herein to provide for the issuance and the terms of the Notes (as defined below).

Section 9.1(6) of the Base Indenture provides that the Company and the Trustee, without the consent of any holders of the Company’s Securities, may provide for the issuance of and establish the form and terms and conditions of Notes of any series as permitted by Sections 2.1 and 2.2 thereof. The provisions contained in this Seventh Supplemental Indenture shall govern only the 5% Senior Notes due 2022 issued hereunder.

The execution and delivery of this Supplemental Indenture has been duly authorized by a board resolution of the Company and each of the Guarantors.

All conditions and requirements necessary to make this Supplemental Indenture a valid, binding and legal instrument in accordance with its terms have been performed and fulfilled by the Company and the Guarantors and the execution and delivery thereof have been in all respects duly authorized by the Company and the Guarantors.

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders (as defined herein) of the 5% Senior Notes due 2022 (the “*Notes*”):

# **ARTICLE 1.** **DEFINITIONS AND INCORPORATION** **BY REFERENCE**

## **Section 1.01**     *Definitions.*

“*Additional Notes*” means any Notes (other than the Initial Notes) issued under this Supplemental Indenture in accordance with Section 2.14 hereof, as part of the same series as the Initial Notes.

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

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

“*Attributable Debt*” means, with respect to any Sale and Leaseback Transaction, at the time of determination, the lesser of (1) the sale price of the property so leased multiplied by a fraction the numerator of which is the remaining portion of the base term of the lease included in such transaction and the denominator of which is the base term of such lease, and (2) the total obligation (discounted to the present value at the implicit interest factor, determined in accordance with GAAP, included in the rental payments) of the lessee for rental payments (other than amounts required to be paid on account of property taxes as well as maintenance, repairs, insurance, water rates and other items which do not constitute payments for property rights) during the remaining portion of the base term of the lease included in such transaction. Notwithstanding the foregoing, if such Sale and Leaseback Transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of “Capital Lease Obligation.”

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

“*Base Indenture*” means has the meaning set forth in the preamble to this Supplemental Indenture, as amended, supplemented or otherwise modified from time to time in accordance with the terms thereof.

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

“*Board of Directors*” means:

- (1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership;
- (3) with respect to a limited liability company, the managing member or members or any controlling committee of managing members or managers thereof; and

- (4) with respect to any other Person, the board or committee of such Person serving a similar function.

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

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

“*Capital Stock*” means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents, however designated, of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“*Change of Control*” means the occurrence of any of the following:

- (1) the sale, transfer, conveyance or other disposition, other than by way of merger or consolidation, in one or a series of related transactions, of all or substantially all of the assets of the Company and its Subsidiaries taken as a whole to any “person,” as that term is used in Section 13(d)(3) of the Exchange Act, other than to the Company or any of its Subsidiaries;
- (2) the adoption of a plan relating to the liquidation or dissolution of the Company;

2

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(3) the consummation of any transaction, including, without limitation, any merger or consolidation, the result of which is that any “person,” as defined above, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company, measured by voting power rather than number of shares; *provided* that any holding company that conducts no material activities other than holding Capital Stock of the Company or any direct or indirect parent of the Company and has no other material assets or liabilities other than such Capital Stock will not itself be considered a “person” for purposes of this clause (3);

- (4) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors; or

(5) the Company consolidates with or merges with or into any Person, or sells, assigns, conveys, transfers, leases or otherwise disposes of all or substantially all of its assets to any Person, or any Person consolidates with, or merges with or into, the Company, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of the Company is converted into or exchanged for cash, securities or other property, other than any such transaction where the Voting Stock of the Company outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance).

“*Change of Control Repurchase Event*” means the occurrence of both a Change of Control and a Ratings Event.

“*Company*” means Ball Corporation, and any and all successors thereto.

“*Consolidated Cash Flow*” means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period *plus*, without duplication:

- (1) provision for taxes based on income or profits of such Person and its Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; *plus*
- (2) consolidated interest expense of such Person and its Subsidiaries for such period, whether paid or accrued and whether or not capitalized, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Debt, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers’ acceptance financings and receivables financings, and net payments, if any, pursuant to Hedging Obligations, to the extent that any such expense was deducted in computing such Consolidated Net Income; *plus*
- (3) depreciation, amortization, including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period, and other non-cash expenses, excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period, of such Person and its Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; *minus*
- (4) non-cash items increasing such Consolidated Net Income for such period, other than items that were accrued in the ordinary course of business;

in each case, on a consolidated basis and determined in accordance with GAAP.

“*Consolidated Net Income*” means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Subsidiaries for such period, on a consolidated basis, determined in

3

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accordance with GAAP; *provided*, that the following items shall be excluded in computing Consolidated Net Income (without duplication):

- (1) the Net Income (but not loss) of any Person (other than the Company) that is not a Subsidiary or that is accounted for by the equity method of accounting except to the extent of the amount of dividends or distributions paid in cash to the specified Person or a Subsidiary of the Person;
- (2) the Net Income of any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval, that has not been obtained or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary or its stockholders;
- (3) the Net Income of any Person acquired in a pooling of interests transaction for any period prior to the date of such acquisition;
- (4) the cumulative effect of a change in accounting principles;
- (5) any gains or losses (on an after-tax basis) attributable to asset dispositions;
- (6) all extraordinary, unusual, or non-recurring gains, charges, expenses or losses;
- (7) any non-cash compensation expenses recorded from grants of stock options, restricted stock and other equity equivalents to officers, directors and employees;
- (8) any impairment charge or asset write off;
- (9) net charges associated with or related to any restructurings;
- (10) all financial advisory fees, accounting fees, legal fees and similar advisory and consulting fees and related costs and expenses of the Company and its Subsidiaries incurred as a result of asset acquisitions, investments, asset sales and the issuance of Capital Stock or Indebtedness, all determined in accordance with GAAP and in each case eliminating any increase or decrease in income resulting from non-cash accounting adjustments made in connection with the related asset acquisition, investment or asset sale;
- (11) expenses incurred by the Company or any Subsidiary to the extent reimbursed in cash by a third party;
- (12) all other non-cash charges, including unrealized gains or losses on agreements with respect to Hedging Obligations and all non-cash charges associated with announced restructurings, whether announced previously or in the future; and
- (13) income or loss attributable to discontinued operations (including, without limitation, operations disposed of during such period whether or not such operations were classified as discontinued).

“*Consolidated Net Tangible Assets*” means, with respect to any specified Person as of any date, the total assets of such Person and its Subsidiaries as of the most recent fiscal quarter end for which a consolidated balance sheet of such Person and its Subsidiaries is available as of that date, minus (a) all current liabilities of such Person and its Subsidiaries reflected on such balance sheet (excluding any current liabilities for borrowed money having a maturity of less than 12 months but by its terms being renewable or extendible beyond 12 months from such date at the option of the borrower) and (b) all goodwill, tradenames, trademarks, patents, unamortized debt discount and expense and other like intangible assets of such Person and its Subsidiaries reflected on such balance sheet, as determined on a consolidated basis in accordance with GAAP.

“*Consolidated Secured Indebtedness*” means, with respect to any specified Person as of any date, (a) the total amount of Indebtedness of such Person and its Subsidiaries as of the most recent consolidated balance sheet of such Person and its Subsidiaries that is available as of that date that is secured by a Lien on the assets or property of such specified Person or upon shares of Capital Stock or Indebtedness of any of its Subsidiaries, as determined on a consolidated basis in accordance with GAAP, plus (b) the total amount of Capital Lease Obligations of such Person and its Subsidiaries as of the most recent consolidated balance sheet of such Person and its Subsidiaries that is available as of that date, as determined on a consolidated basis in accordance with GAAP, plus (c) the total amount of Attributable Debt in respect of Sale and Leaseback Transactions of such Person and its Subsidiaries as of such date.

“*Consolidated Secured Leverage Ratio*” means, with respect to any specified Person as of any date, the ratio of (a) the Consolidated Secured Indebtedness of such Person as of such date to (b) the Consolidated Cash Flow of such Person for the four most recent full fiscal quarters ending immediately prior to such date for which internal financial statements are available. In the event that the specified Person or any of its Subsidiaries incurs, assumes, guarantees, repays, repurchases, redeems, defeases or otherwise discharges any Indebtedness that is secured by a Lien on Principal Property of such Person or upon shares of stock or Indebtedness of any of its Subsidiaries (other than ordinary working capital borrowings) subsequent to the commencement of the period for which such Consolidated Cash Flow is being calculated and on or prior to the date on which the event for which the calculation of the Consolidated Secured Leverage Ratio is made (the “*Calculation Date*”), then the Consolidated Secured Leverage Ratio will be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase, redemption, defeasance or other discharge of Indebtedness, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Consolidated Secured Leverage Ratio:

- (1) acquisitions and dispositions that have been made by the specified Person or any of its Subsidiaries, including through mergers or consolidations, or any Person or any of its Subsidiaries acquired by the specified Person or any of its Subsidiaries, and including any related financing transactions and giving effect to the application of proceeds from any dispositions, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be deemed to have occurred on the first day of the four-quarter reference period and Consolidated Cash Flow for such reference period will be calculated without giving effect to clause (3) of the proviso set forth in the definition of Consolidated Net Income; and
- (2) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of prior to the Calculation Date, will be excluded,

provided that to the extent that clause (1) or (2) of this paragraph requires that pro forma effect be given to an acquisition, disposition or discontinued operations, as applicable, such pro forma calculation shall be made in good faith by a responsible financial or accounting officer of the Company (and may include, for the avoidance of doubt and without duplication, cost savings, synergies and operating expense resulting from such acquisition whether or not such cost savings, synergies or operating expense reductions would be allowed under Regulation S-X promulgated by the SEC or any other regulation or policy of the SEC).

“*Continuing Directors*” means, as of any date of determination, any member of the Board of Directors of the Company who:

(1) was a member of the Board of Directors on the date of the Supplemental Indenture; or

(2) was nominated for election, elected or appointed to the Board of Directors with the approval of a majority of the Continuing Directors who were members of the Board of Directors at the time of such nomination, election or appointment (either by specific action by the Board of Directors or by approval by the Board of Directors of the Company's proxy statement in which such member was named as a nominee for election as a director).

"*Corporate Trust Office of the Trustee*" will be at the address of the Trustee specified in Section 12.02 hereof or such other address as to which the Trustee may give notice to the Company.

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

"*Definitive Note*" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Note will not bear the Global Note Legend.

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

"*Description of Notes*" means the description of notes section of the Company's prospectus supplement, dated February 24, 2012, relating to the offering of the Initial Notes.

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

"*Domestic Subsidiary*" means any Subsidiary of the Company that was formed under the laws of the United States or any state of the United States or the District of Columbia or that guarantees or otherwise provides direct credit support for any Indebtedness of the Company or its Domestic Subsidiaries.

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

"*Excluded Subsidiary*" means such Subsidiaries of the Company as may from time to time be designated by the Company as "Excluded Subsidiaries" pursuant to an Officers' Certificate delivered to the Trustee; *provided*, that each such Subsidiary shall be an Excluded Subsidiary only if and only for so long as:

- (1) the aggregate of the net sales of all such Subsidiaries shall not exceed \$35 million in any twelve-month period; and
- (2) the aggregate of the assets, including capitalization, of all such Subsidiaries as of any date shall not exceed \$35 million.

"*Foreign Subsidiaries*" means Subsidiaries of the Company that are not Domestic Subsidiaries.

"*GAAP*" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board and such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are applicable as of the date of this Supplemental Indenture.

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

"*Global Notes*" means, individually and collectively, each of the Global Notes, in the form of Exhibit A hereto issued in accordance with Section 2.01 hereof.

"*Government Securities*" means direct obligations of, or obligations guaranteed by, the United States of America, and the payment for which the United States pledges its full faith and credit.

"*Guarantee*" means a guarantee, other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of

assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness.

"*Guarantors*" means:

- (1) each Domestic Subsidiary of the Company as of the date of this Supplemental Indenture that Guarantees any other Indebtedness of the Company (other than Ball Capital Corp. II and the Excluded Subsidiaries); and
- (2) any other Subsidiary of the Company that executes a supplemental indenture in the form of Exhibit C and becomes a Guarantor in accordance with the provisions of this Supplemental Indenture;
- (3) and, in each case, their respective successors and assigns.

"*Hedging Obligations*" means, with respect to any specified Person, the net payment obligations of such Person under:

- (1) interest rate swap agreements (including from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements; and
- (2) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

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

“*Indebtedness*” means, with respect to any specified Person, any indebtedness of such Person, in respect of borrowed money, whether evidenced by credit agreements, bonds, notes, debentures or similar instruments or letters of credit, or reimbursement agreements in respect thereof. In addition, the term “*Indebtedness*” includes all Indebtedness of others secured by a Lien on any Principal Property of the specified Person or upon the shares of Capital Stock or Indebtedness of any Subsidiary of the specified Person, whether or not such Indebtedness is assumed by the specified Person, and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person or any liability of any person, whether or not contingent and whether or not it appears on the balance sheet of such Person.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness that does not require the current payment of interest;
- (2) the principal amount of the Indebtedness in the case of any other Indebtedness; and
- (3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:
  - (a) the fair market value (as determined in good faith by the Company) of such assets at the date of determination; and
  - (b) the amount of the Indebtedness of the other Person.

For avoidance of doubt, a letter of credit or analogous instrument will not constitute Indebtedness until it has been drawn upon.

“*Indenture*” means the Base Indenture, as supplemented by this Supplemental Indenture, governing the Notes, in each case, as amended, supplemented or restated from time to time.

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

“*Initial Notes*” means the first \$750.0 million aggregate principal amount of Notes issued under this Supplemental Indenture on the date hereof.

“*Investment Grade*” means a rating of Baa3 or better by Moody’s (or its equivalent under any successor rating categories of Moody’s), a rating of BBB- or better by S&P (or its equivalent under any successor rating categories of S&P) and the equivalent Investment Grade credit rating from any additional Rating Agency or Rating Agencies selected by the Company.

“*Legal Holiday*” means a Saturday, a Sunday or a day on which banking institutions in the City of New York, the city in which the principal office of the Trustee is located or at a place of payment are authorized by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest will accrue on such payment for the intervening period.

“*Lien*” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement or any lease in the nature thereof; *provided* that in no event will an operating lease be deemed to constitute a Lien.

“*Moody’s*” means Moody’s Investors Services, Inc., and its successors.

“*Net Income*” means, with respect to any specified Person, the net income or loss of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:

- (1) any gain or loss, together with any related provision for taxes on such gain or loss, realized in connection with the disposition of any securities by such Person or any of its Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Subsidiaries;
- (2) any extraordinary gain or loss, together with any related provision for taxes on such extraordinary gain or loss; and
- (3) any one-time noncash charges (including legal, accounting, debt issuance and debt retirement costs) resulting from the offering of the Initial Notes, the application of the net proceeds therefrom and the payment of related fees and expenses.

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

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

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

“*Officers’ Certificate*” means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be a vice-president, the principal financial officer or the principal accounting officer of the Company, that meets the requirements of Sections 12.04 and 12.05 hereof.

“*Opinion of Counsel*” means an opinion from legal counsel who is acceptable to the Trustee, that meets the requirements of Sections 12.04 and 12.05 hereof. The counsel may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

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

“*Permitted Liens*” means:

(1) Liens securing Indebtedness on any Principal Property existing at the time of its acquisition and Liens created contemporaneously with or within 270 days after (or created pursuant to firm commitment financing arrangements obtained within that period) the later of (a) the acquisition or completion of construction or completion of substantial reconstruction, renovation, remodeling, expansion or improvement (each, a “substantial improvement”) of such Principal Property or (y) the placing in operation of such Principal Property after the acquisition or completion of any such construction or substantial improvement;

(2) Liens on property or assets or shares of Capital Stock or Indebtedness of a Person existing at the time it is merged, combined or amalgamated with or into or consolidated with, or its assets or Capital Stock are acquired by, the Company or any of its Subsidiaries or it otherwise becomes a Subsidiary of the Company; provided, however, that in each case (a) the Indebtedness secured by such Lien was not incurred in contemplation of such merger, combination, amalgamation, consolidation, acquisition or transaction in which such Person becomes a Subsidiary of the Company and (b) such Lien extends only to the Capital Stock and assets of such Person (and Subsidiaries of such Person) and/or to property other than Principal Property or the Capital Stock or Indebtedness of any Subsidiary of the Company;

(3) Liens securing Indebtedness in favor of the Company and/or one or more of its Subsidiaries;

(4) Liens in favor of or required by a governmental unit in any relevant jurisdiction, including any departments or instrumentality thereof, to secure payments under any contract or statute, or to secure debts incurred in financing the acquisition or construction of or improvements or alterations to property subject thereto;

(5) Liens in favor of any customer arising in respect of and not exceeding the amount of performance deposits and partial, progress, advance or other payments by that customer for goods produced or services rendered to that customer in the ordinary course of business and consignment arrangements (whether as consignor or as consignee) or similar arrangements for the sale or purchase of goods in the ordinary course of business;

(6) Liens existing on the date of this Supplemental Indenture;

(7) Liens to secure any extension, renewal, refinancing, refunding or replacement (or successive extensions, renewals, refinancings, refundings or replacements), in whole or in part, of any Indebtedness secured by Liens referred to in the foregoing clauses (1) through (6) or the following clauses (10) or (11) or Liens created in connection with any amendment, consent or waiver relating to such Indebtedness, so long as (a) such Lien is limited to (i) all or part of substantially the same property which secured the Lien extended, renewed, refinanced, refunded or replaced and/or (ii) property other than Principal Property or the Capital Stock or Indebtedness of any Subsidiary of the Company and (b) the amount of Indebtedness secured is not increased (other than by the amount equal to any costs, expenses, premiums, fees or prepayment penalties incurred in connection with any extension, renewal, refinancing, refunding or replacement);

(8) Liens in respect of cash in connection with the operation of cash management programs and Liens associated with the discounting or sale of letters of credit and customary rights of set off, banker’s Lien, revocation, refund or chargeback or similar rights under deposit disbursement, concentration account agreements or under the Uniform Commercial Code or arising by operation of law;

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(9) Liens resulting from the deposit of funds or evidences of Indebtedness in trust for the purpose of defeasing Indebtedness of the Company or any of its Restricted Subsidiaries, and legal or equitable encumbrances deemed to exist by reason of negative pledges;

(10) Liens securing Indebtedness in an aggregate principal amount not to exceed, as of the date such Indebtedness is incurred, the amount that would cause the Consolidated Secured Leverage Ratio of the Company to be greater than 3.00 to 1.00 as of such date of incurrence; or

(11) other Liens, in addition to those permitted in the foregoing clauses (1) through (10), securing Indebtedness having an aggregate principal amount (including all outstanding Indebtedness incurred pursuant to the foregoing clause (7) to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (11)), measured as of the date of the incurrence of any such Indebtedness (after giving pro forma effect to the application of the proceeds therefrom), taken together with the amount of all Attributable Debt of the Company and its Restricted Subsidiaries at that time outstanding relating to Sale and Leaseback Transactions permitted under Section 4.11 not to exceed 15% of the Consolidated Net Tangible Assets of the Company measured as of the date any such Indebtedness is incurred (after giving pro forma effect to the application of the proceeds therefrom and any transaction in connection with which such Indebtedness is being incurred).

For purposes of the foregoing clauses (10) and (11), (a) with respect to any revolving credit facility secured by a Lien, the full amount of Indebtedness that may be borrowed thereunder will be deemed to be incurred at the time any revolving credit commitment thereunder is first extended or increased and will not be deemed to be incurred when such revolving credit facility is drawn upon and (b) if a Lien by the Company or any of its Restricted Subsidiaries is granted to secure Indebtedness that was previously unsecured, such Indebtedness will be deemed to be incurred as of the date such Indebtedness is secured.

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

“*Principal Property*” means any manufacturing plant or manufacturing facility owned by the Company or any of its Subsidiaries located within the continental United States that has a net book value in excess of 1.5% of the Consolidated Net Tangible Assets of the Company. For purposes of this definition, net book value will be measured at the time the relevant Lien is being created, at the time the relevant secured Indebtedness is incurred or at the time the relevant Sale and Leaseback Transaction is entered into, as applicable.

“*Rating Agency*” means (1) each of Moody’s and S&P and (2) if either Moody’s or S&P ceases to rate the Notes or fails to make a rating of the Notes publicly available for reasons outside of the Company’s control, a “nationally recognized statistical rating organization” within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act, selected by the Company as a replacement agency for Moody’s or S&P, or both, as the case may be.

“*Rating Date*” means the date that is 60 days prior to the earlier of (a) a Change of Control or (b) public notice of the occurrence of a Change of Control or the intention by the Company to affect a Change of Control.

“*Ratings Event*” means the occurrence of the events described in (1) or (2) of this definition on, or within 60 days after the earlier of, (i) the occurrence of a Change of Control or (ii) public notice of the occurrence of a Change of Control or the intention by the Company to effect a Change of Control (which period shall be extended so long as the rating of the Notes is under publicly announced consideration for a possible downgrade by any of the Rating Agencies):

(1) if the Notes are rated by one or both Rating Agencies on the Rating Date as Investment Grade, the rating of the Notes shall be reduced so that the Notes are rated below Investment Grade by both Rating Agencies or



(2) if the Notes are rated below Investment Grade by both Rating Agencies on the Rating Date, the rating of the Notes shall remain rated below Investment Grade by both Rating Agencies.

“*Restricted Subsidiary*” means any Domestic Subsidiary (other than Ball Capital Corp. II or any other receivables securitization entity).

“*Responsible Officer*” when used with respect to the Trustee, means any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time will be such officers, respectively, or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject and who will have direct responsibility for the administration of this Supplemental Indenture.

“*S&P*” means Standard & Poor’s Ratings Services, a division of the McGraw Hill Corporation, Inc., and its successors.

“*SEC*” means the Securities and Exchange Commission.

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

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

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

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

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled, without regard to the occurrence of any contingency, to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person; and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or an entity described in clause (1) and related to such Person or (b) the only general partners of which are such Person or one or more entities described in clause (1) and related to such Person, or any combination thereof.

For avoidance of doubt, neither Latapack-Ball Embalagens Ltda nor Rocky Mountain Metal Container LLC will be deemed to be a Subsidiary of the Company, in each case for so long as the Company’s ownership percentage of the Voting Stock (measured by voting power) of the applicable entity as of the date of the Supplemental Indenture does not materially increase.

“*Supplemental Indenture*” means this Seventh Supplemental Indenture, dated as of the date hereof, by and among the Company, the Guarantors and the Trustee, governing the Notes, as amended, supplemented or otherwise modified from time to time in accordance with the Base Indenture and the terms hereof.

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

“*U.S. Person*” means a U.S. person as defined in Rule 902(o) under the Securities Act.

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

## Section 1.02 Other Definitions.

Term	Defined in Section
“ <i>Authentication Order</i> ”	2.02
“ <i>Calculation Date</i> ”	1.01
“ <i>Change of Control Offer</i> ”	4.09
“ <i>Change of Control Payment</i> ”	4.09
“ <i>Change of Control Payment Date</i> ”	4.09
“ <i>Comparable Treasury Issue</i> ”	3.07
“ <i>Comparable Treasury Price</i> ”	3.07
“ <i>Covenant Defeasance</i> ”	8.03
“ <i>DTC</i> ”	2.03
“ <i>Event of Default</i> ”	6.01
“ <i>Independent Investment Banker</i> ”	3.07
“ <i>Legal Defeasance</i> ”	8.02
“ <i>Paying Agent</i> ”	2.03
“ <i>Payment Default</i> ”	6.01
“ <i>Reference Treasury Dealer</i> ”	3.07
“ <i>Reference Treasury Dealer Quotations</i> ”	3.07
“ <i>Registrar</i> ”	2.03
“ <i>Treasury Rate</i> ”	3.07

**Section 1.03** *Incorporation by Reference of Trust Indenture Act.*

Whenever this Supplemental Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Supplemental Indenture.

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

“*indenture securities*” means the Notes;

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

“*indenture to be qualified*” means this Supplemental Indenture;

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

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

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

**Section 1.04** *Rules of Construction.*

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;

12

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- (2) an accounting term not otherwise defined herein has the meaning assigned to it in accordance with GAAP;

- (3) “or” is not exclusive;

- (4) words in the singular include the plural, and in the plural include the singular;

- (5) provisions apply to successive events and transactions;

- (6) references to sections of or rules under the Securities Act will be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;

- (7) “will” shall be interpreted to express a command; and

- (8) references to sections of the Indenture refer to sections of this Supplemental Indenture.

**Section 1.05** *Relationship with Base Indenture.*

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

The Trustee accepts the amendment of the Base Indenture effected by this Supplemental Indenture and agrees to execute the trust created by the Base Indenture as hereby amended, but only upon the terms and conditions set forth in this Supplemental Indenture, including the terms and provisions defining and limiting the liabilities and responsibilities of the Trustee in the performance of the trust created by the Base Indenture, and without limiting the generality of the foregoing, the Trustee will not be responsible in any manner whatsoever for or with respect to any of the recitals or statements contained herein, all of which recitals or statements are made solely by the Company and the Guarantors, or for or with respect to (1) the validity or sufficiency of this Supplemental Indenture or any of the terms or provisions hereof, (2) the proper authorization hereof by the Company and the Guarantors, (3) the due execution hereof by the Company and the Guarantors or (4) the consequences (direct or indirect and whether deliberate or inadvertent) of any amendment herein provided for, and the Trustee makes no representation with respect to any such matters.

**ARTICLE 2.  
THE NOTES**

**Section 2.01** *Form and Dating.*

(a) *General.* The Notes and the Trustee’s certificate of authentication will be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note will be dated the date of its authentication. The Notes will be in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

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

(b) *Global Notes.* Notes issued in global form will be substantially in the form of Exhibit A attached hereto (including the Global Note Legend thereon). Notes issued in definitive form will be substantially in the form

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

**Section 2.02**      *Execution and Authentication.*

One Officer will sign the Notes for the Company and the Guarantees for the Guarantors by manual or facsimile signature or a signature by the means of an electronic transmission (including a pdf). If an Officer whose signature is on a Note and/or a Guarantee no longer holds that office at the time such Note and/or Guarantee is authenticated, such Note and/or Guarantee will nevertheless be valid.

A Note and/or a Guarantee will not be valid until authenticated by the manual signature of the Trustee. The signature will be conclusive evidence that the Note or Guarantee, as applicable, has been authenticated under this Supplemental Indenture.

The Trustee will, upon a written order of the Company signed by one Officer (an “*Authentication Order*”), authenticate Notes and Guarantees for original issue in accordance with this Supplemental Indenture, including any Additional Notes issued pursuant to Section 2.14 hereof.

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

**Section 2.03**      *Registrar and Paying Agent.*

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

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

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

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

The Company will require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal, premium, if any, or interest on the Notes, and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Company at any time may require a Paying Agent to pay all money held by it

to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary) will have no further liability for the money. If the Company or a Subsidiary acts as Paying Agent, it will segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee will serve as Paying Agent for the Notes.

**Section 2.05**      *Holder Lists.*

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

**Section 2.06**      *Transfer and Exchange.*

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

(1)      the Company delivers to the Trustee notice from the Depository that it is unwilling or unable to continue to act as Depository or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depository is not appointed by the Company within 120 days after the date of such notice from the Depository; or

(2)      the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee.

Upon the occurrence of either of the preceding events in (1) or (2) above, Definitive Notes will be issued in such names and in any approved denominations as the Depository will instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, will be authenticated and delivered in the form of, and will be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Sections 2.06(b), (c) or (g) hereof.

(b) *Transfer and Exchange of Beneficial Interests in the Global Notes.* The transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of this Supplemental Indenture and the Applicable Procedures. Transfers of beneficial interests in the Global Notes also will require compliance with either subparagraph (1) or (2) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(1) *Transfer of Beneficial Interests in the Same Global Note.* Beneficial interests in any Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in a Global Note. No written orders or instructions will be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(1).

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

15

(A) (i) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and (ii) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase.

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

(c) *Transfer or Exchange of Beneficial Interests for Definitive Notes.* If any holder of a beneficial interest in a Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(2) hereof, the Trustee will cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(g) hereof, and the Company will execute and the Trustee will authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest requests through instructions to the Registrar from or through the Depositary and the Participant or Indirect Participant. The Trustee will deliver such Definitive Notes to the Persons in whose names such Notes are so registered.

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

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to the previous paragraph at a time when a Global Note has not yet been issued, the Company will issue and, upon receipt of the Company's order, the Trustee will authenticate one or more Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

A Holder of Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of a Definitive Note.

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

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

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

16

PURSUANT TO SECTION 2.06(a) OF THE SEVENTH SUPPLEMENTAL INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE SUPPLEMENTAL INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

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

other Global Note will be increased accordingly and an endorsement will be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(h) General Provisions Relating to Transfers and Exchanges.

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

(2) No service charge will be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 4.09 and 9.05 hereof).

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

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

17

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(5) The Company will not be required:

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

(B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part; or

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

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

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

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

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

(10) Neither the Trustee nor any Agent shall have any responsibility for any actions taken or not taken by the Depositary.

**Section 2.07** *Replacement Notes.*

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

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

**Section 2.08** *Outstanding Notes.*

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

18

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

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

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

**Section 2.09** *Treasury Notes.*

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

**Section 2.10** *Temporary Notes.*

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

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

**Section 2.11** *Cancellation.*

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent will forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else will cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and will return such canceled Notes to the Company. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

**Section 2.12** *Defaulted Interest.*

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

**Section 2.13** *CUSIP Number.*

The Company in issuing the Notes may use “CUSIP” numbers (if then generally in use), and, if so, the Trustee will use CUSIP numbers in notices of redemption as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes

or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption will not be affected by any defect in or the omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the CUSIP numbers.

**Section 2.14** *Issuance of Additional Notes.*

The Company will be entitled, upon delivery of an Officer’s Certificate and an Opinion of Counsel, to issue Additional Notes under this Supplemental Indenture which will have identical terms as the Initial Notes issued on the date hereof, other than with respect to the date of issuance and issue price. The Initial Notes issued on the date hereof and any Additional Notes issued will be treated as a single class for all purposes under this Supplemental Indenture.

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

- (a) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Supplemental Indenture; and
- (b) the issue price, the issue date and the CUSIP number of such Additional Notes.

**ARTICLE 3.  
REDEMPTION AND PREPAYMENT**

**Section 3.01** *Notice to Trustee.*

If the Company elects to redeem Notes pursuant to the redemption provisions of Section 3.07 hereof, it will furnish to the Trustee, at least 30 days but not more than 60 days before a Redemption Date, an Officers’ Certificate setting forth:

- (i) the provision of this Supplemental Indenture pursuant to which the redemption will occur;
- (ii) the Redemption Date;
- (iii) the principal amount of Notes to be redeemed;
- (iv) the redemption price; and
- (v) the CUSIP numbers of the Notes to be redeemed.

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

If less than all of the Notes are to be redeemed at any time, the Trustee will select the Notes to be redeemed among the Holders of the Notes (a) in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed or, (b) if the Notes are not so listed, on a *pro rata* basis (unless otherwise required by law or applicable stock exchange or depository requirements). In the event of partial redemption by lot, the particular Notes to be redeemed will be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the Redemption Date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee will promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected will be in amounts of \$2,000 or whole multiples of \$1,000 in excess thereof; except that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder, even if not a

multiple of \$1,000, will be redeemed. Except as provided in the preceding sentence, provisions of this Supplemental Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

**Section 3.03**     *Notice of Redemption.*

At least 30 days but not more than 60 days before a Redemption Date, the Company will mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address.

The notice will identify the Notes to be redeemed, including the CUSIP numbers, and will state:

- (1)     the Redemption Date;
- (2)     the redemption price;
- (3)     if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the Redemption Date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion will be issued in the name of the Holder of such Notes upon cancellation of the original Note;
- (4)     the name and address of the Paying Agent;
- (5)     that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (6)     that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the Redemption Date;
- (7)     the paragraph of the Notes and/or Section of this Supplemental Indenture pursuant to which the Notes called for redemption are being redeemed; and
- (8)     that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee will give the notice of redemption in the Company's name and at its expense; *provided, however*, that the Company will have delivered to the Trustee, at least 45 days prior to the Redemption Date (or such shorter period as the Trustee in its sole discretion may allow), an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

**Section 3.04**     *Effect of Notice of Redemption.*

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the Redemption Date at the redemption price; *provided*, that any redemption of Notes pursuant to this Supplemental Indenture may, at the Company's discretion, be subject to one or more conditions precedent.

**Section 3.05**     *Deposit of Redemption Price.*

One Business Day prior to the Redemption Date, the Company will deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of and accrued interest on all Notes to be redeemed on that date. The Trustee or the Paying Agent will promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of, and accrued interest on, all Notes to be redeemed.

If the Company complies with the provisions of the preceding paragraph, on and after the Redemption Date, interest will cease to accrue on the Notes or the portions of Notes called for redemption. If a Note is redeemed on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest will be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption will not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest will be paid on the unpaid principal, from the Redemption Date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

**Section 3.06**     *Notes Redeemed in Part.*

Upon surrender of a Note that is redeemed in part, the Company will issue and, upon the Company's written request, the Trustee will authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

No Notes of \$2,000 or less can be redeemed in part.

**Section 3.07**     *Optional Redemption.*

The Company may redeem the Notes at any time in whole, or from time to time in part, in each case, at its option, at a redemption price equal to the greater of (1) 100% of the principal amount of the Notes to be redeemed and (2) the sum of the present values of the remaining scheduled payments of principal and interest on such Notes discounted to the date of redemption (excluding interest accrued to the date of redemption), on a semiannual basis, at a rate equal to the sum of the Treasury Rate plus 50 basis points, plus in each case, accrued and unpaid interest, if any, to but excluding the redemption date. The redemption prices will be calculated assuming a 360-day year consisting of twelve 30-day months.

Notwithstanding the foregoing, installments of interest on the Notes that are due and payable on interest payment dates falling on or prior to a redemption date will be payable on the interest payment date to the registered holders as of the close of business on the relevant record date according to the Notes and this Supplemental Indenture.

For purposes of the foregoing, the following definitions apply:

“*Comparable Treasury Issue*” means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the remaining term (as measured from the date of redemption) of the Notes that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes.

“*Comparable Treasury Price*” means, with respect to any redemption date, (i) the average of the Reference Treasury Dealer Quotations obtained by the Company for that redemption date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, (ii) if we are unable to obtain at least four such Reference Treasury Dealer Quotations, the average of all Reference Treasury Dealer Quotations obtained by the Company, or (iii) if only one Reference Treasury Dealer Quotation is received, such quotation.

“*Independent Investment Banker*” means Merrill Lynch, Pierce, Fenner & Smith Incorporated, or, if such firm is unwilling or unable to select the applicable Comparable Treasury Issue, an independent investment banking institution of national standing appointed by the Company.

“*Reference Treasury Dealer*” means (i) Merrill Lynch, Pierce, Fenner & Smith Incorporated (or its affiliates that are Primary Treasury Dealers) and their respective successors; *provided, however*, that if any of the foregoing shall cease to be a primary U.S. government securities dealer in New York City (a “Primary Treasury Dealer”), the Company may substitute another institution to act as a Primary Treasury Dealer, and (ii) at least two other Primary Treasury Dealers selected by the Company.

22

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“*Reference Treasury Dealer Quotations*” means, with respect to each Reference Treasury Dealer and any redemption date for the Notes, an average, as determined by the Company, of the bid and asked prices for the Comparable Treasury Issue for the Notes, expressed in each case as a percentage of its principal amount, quoted in writing to the Company by the Reference Treasury Dealer at 3:30 p.m., New York City time, on the third business day preceding the redemption date.

“*Treasury Rate*” means, with respect to any redemption date applicable to the Notes, the rate per annum equal to the semi-annual equivalent yield to maturity, computed as of the third business day immediately preceding the redemption date, of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue, expressed as a percentage of its principal amount, equal to the applicable Comparable Treasury Price for the redemption date.

**Section 3.08**     *Mandatory Redemption.*

The Company is not required to make any mandatory redemption or sinking fund payments with respect to the Notes.

**ARTICLE 4.**  
**COVENANTS**

**Section 4.01**     *Payment of Notes.*

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

The Company or a Guarantor will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest at the same rate to the extent lawful.

**Section 4.02**     *Maintenance of Office or Agency.*

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

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

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

23

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**Section 4.03**     *Reports.*

(a) Whether or not required by the rules and regulations of the SEC, so long as any Notes are outstanding, the Company will furnish to the Trustee and the Holders of Notes or cause the Trustee to furnish to the Holders of Notes (or file with the SEC for public availability) within the time periods specified in the SEC’s rules and regulations:

(1) all quarterly and annual financial information that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K if the Company were required to file such Forms, including a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and, with respect to the annual information only, a report on the annual financial statements by the Company’s independent registered public accountants; and



- (2) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports.

In addition, whether or not required by the rules and regulations of the SEC, the Company will file a copy of all such information and reports referred to in clauses (1) and (2) above with the SEC for public availability within the time periods specified in the SEC's rules and regulations, unless the SEC will not accept such a filing, and make such information available to securities analysts and prospective investors upon request. The Company will at all times comply with TIA Section 314(a). Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such will not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

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

(c) If the Company is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Company will nevertheless continue filing the reports specified in the preceding paragraphs of this Section 4.03 with the SEC within the time periods specified above unless the SEC will not accept such a filing. The Company agrees that it will not take any action for the purpose of causing the SEC not to accept any such filings. If, notwithstanding the foregoing, the SEC will not accept the Company's filings for any reason, the Company will post the reports referred to in the preceding paragraphs on its website within the time periods that would apply if it was required to file those reports with the SEC.

#### **Section 4.04** *Compliance Certificate.*

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

24

(b) So long as not contrary to the then current recommendations of the American Institute of Certified Public Accountants, the year-end financial statements delivered pursuant to Section 4.03(a) above will be accompanied by a written statement of the Company's independent registered public accountants (who will be a firm of established national reputation) that in making the examination necessary for certification of such financial statements, nothing has come to their attention that would lead them to believe that the Company has violated any provisions of Article 4 or Article 5 hereof or, if any such violation has occurred, specifying the nature and period of existence thereof, it being understood that such accountants will not be liable directly or indirectly to any Person for any failure to obtain knowledge of any such violation.

(c) The Company will, so long as any of the Notes are outstanding, deliver to the Trustee, as soon as possible, but in no event later than five days after any Officer becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

#### **Section 4.05** *Taxes.*

The Company will pay, and will cause each of 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.*

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

#### **Section 4.07** *Limitation on Liens.*

The Company will not, nor will it permit any of its Restricted Subsidiaries to, create, incur or assume any Lien (other than Permitted Liens) upon any Principal Property or upon the Capital Stock or Indebtedness of any of its Subsidiaries, in each case to secure Indebtedness of the Company, any Subsidiary of the Company or any other Person, without securing the Notes (together with, at the option of the Company, any other Indebtedness of the Company or any Subsidiary ranking equally in right of payment with the Notes) equally and ratably with or, at the option of the Company, prior to, such other Indebtedness for so long as such other Indebtedness is so secured. Any Lien that is granted to secure the Notes under this Section 4.07 shall be automatically released and discharged at the same time as the release of the Lien that gave rise to the obligation to secure the Notes under this Section 4.07.

#### **Section 4.08** *Corporate Existence.*

Subject to Articles 5 and 10 hereof, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect (i) its corporate existence, and the corporate, partnership or other existence of each of its Restricted Subsidiaries and any Unrestricted Subsidiary with \$20.0 million of net sales in the most recent twelve month period or assets of \$20.0 million, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company, any Restricted Subsidiary or any Unrestricted Subsidiary with \$20.0 million of net sales in the most recent twelve month period or assets of \$20.0 million and (ii) the rights (charter and statutory), licenses and franchises of the Company, its Restricted Subsidiaries and any Unrestricted Subsidiary with \$20.0 million of net sales in the most recent twelve month period or assets of \$20.0 million; *provided, however*, that the Company will not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if the Board of Directors will determine that

the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

**Section 4.09** *Offer to Purchase Upon Change of Control Repurchase Event.*

(a) If a Change of Control Repurchase Event occurs, unless the Company has exercised its right to redeem the Notes as described in Section 3.07 hereof within 60 days after the Change of Control, the Company will make an offer (a “*Change of Control Offer*”) to each Holder of Notes to repurchase all or any part, equal to \$2,000 or an integral multiple of \$1,000 in excess thereof, of that Holder’s Notes at a repurchase price in cash equal to 101% of the aggregate principal amount of the Notes repurchased, plus any accrued and unpaid interest on the Notes repurchased to but excluding the date of repurchase (the “*Change of Control Payment*”). Within 30 days following any Change of Control Repurchase Event, or, at the Company’s option, prior to the consummation of the Change of Control transaction but after the public announcement thereof, the Company will send a notice to each Holder describing the transaction or transactions that constitutes the Change of Control and offering to repurchase Notes on the date specified in such notice (the “*Change of Control Payment Date*”), which date will be no earlier than 30 days and no later than 60 days from the date such notice is sent, pursuant to the procedures required by this Supplemental Indenture and described in such notice. If sent prior to the date of consummation of the Change of Control transaction, the notice will state that the Change of Control Offer is conditioned on a Change of Control Repurchase Event occurring prior to the Change of Control Payment Date. The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control Repurchase Event. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control Repurchase Event provisions of this Supplemental Indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control Repurchase Event provisions of this Supplemental Indenture by virtue of such compliance.

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

(1) accept for payment all Notes or portions of the Notes (equal to \$2,000 or an integral multiple of \$1,000 in excess thereof) properly tendered pursuant to a Change of Control Offer;

(2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of the Notes properly tendered; and

(3) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officers’ Certificate stating the aggregate principal amount of Notes or portions of the Notes being repurchased by the Company.

The Paying Agent will promptly mail to each Holder of Notes properly tendered the Change of Control Payment for such Notes, and the Trustee will promptly authenticate and mail, or cause to be transferred by book entry, to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided* that each new Note will be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof.

Except as described above with respect to a Change of Control, this Supplemental Indenture does not contain provisions that permit the Holders of the Notes to require that the Company repurchase or redeem the Notes in the event of a takeover, recapitalization or similar transaction.

(c) Notwithstanding anything to the contrary in this Section 4.09, the Company will not be required to make a Change of Control Offer upon a Change of Control Repurchase Event if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Supplemental Indenture applicable to a Change of Control Offer made by the Company and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given pursuant to Section 3.07, unless and until there is a default in payment of the applicable redemption price.

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**Section 4.10** *Additional Guarantees.*

If the Company or any of its Subsidiaries acquires or creates another Domestic Subsidiary after the date of this Supplemental Indenture and such newly acquired or created Domestic Subsidiary Guarantees (or is a guarantor of) any other Indebtedness of the Company, then that newly acquired or created Domestic Subsidiary will become a Guarantor and execute and deliver a supplemental indenture in the form of Exhibit C within 20 business days of the date on which it was acquired or created or such later date on which it guarantees (or is a guarantor of) such other Indebtedness of the Company; *provided*, that this Section 4.10 does not apply to any Excluded Subsidiary for so long as it continues to constitute an Excluded Subsidiary.

**Section 4.11** *Sale and Leaseback Transactions.*

(a) The Company will not, nor will it permit any of its Restricted Subsidiaries to, enter into any arrangement with any other Person pursuant to which the Company or any of its Restricted Subsidiaries leases any Principal Property that has been or is to be sold or transferred by the Company or the Restricted Subsidiary to such other Person (a “*Sale and Leaseback Transaction*”), except that a Sale and Leaseback Transaction is permitted if the Company or such Restricted Subsidiary would be entitled to incur Indebtedness secured by a Lien on the Principal Property to be leased, without equally and ratably securing the Notes, in an aggregate principal amount equal to the Attributable Debt with respect to such Sale and Leaseback Transaction.

(b) In addition, the following Sale and Leaseback Transactions are not subject to the limitations of Section 4.11(a) and Section 4.07:

(1) temporary leases for a term, including renewals at the option of the lessee, of not more than three years;

(2) leases between only the Company and a Restricted Subsidiary of the Company or only between Restricted Subsidiaries of the Company;

(3) leases where the proceeds from the sale of the subject property are at least equal to the fair market value (as determined in good faith by the Company) of the subject property and the Company applies an amount equal to the net proceeds of the sale to the retirement of long term Indebtedness or the purchase, construction, development, expansion or improvement of other property or equipment used or useful in its business, within 270 days of the effective date of such sale; *provided* that in lieu of applying such amount to the retirement of long-term Indebtedness, the Company may deliver Notes or other debt securities to the Trustee for cancellation; and

(4) leases of property executed by the time of, or within 270 days after the latest of, the acquisition, the completion of construction, development, expansion or improvement, or the commencement of commercial operation, of the subject property.

**ARTICLE 5.  
SUCCESSORS**

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

The Company will not, directly or indirectly: (1) consolidate or merge with or into another Person, or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its Subsidiaries, taken as a whole, in one or more related transactions, to another Person unless:

(i) either: (a) the Company is the surviving corporation; or (b) the Person formed by or surviving any such consolidation or merger, if other than the Company, or to which such sale, assignment, transfer, conveyance or other disposition has been made is either a corporation organized or existing under the laws of the United States, any state of the United States or the District of Columbia or, if such Person is not a corporation, a co-obligor of the Notes is a corporation organized or existing under any such laws;

27

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(ii) the Person formed by or surviving any such consolidation or merger, if other than the Company, or the Person to which such sale, assignment, transfer, conveyance or other disposition will have been made assumes all the obligations of the Company under the Notes and this Supplemental Indenture pursuant to agreements reasonably satisfactory to the Trustee; and

(iii) immediately after such transaction no Default or Event of Default exists.

The provisions of this Section 5.01 will not apply to a merger, consolidation, sale, assignment, transfer, conveyance or other disposition of assets between or among the Company and its Subsidiaries.

**Section 5.02**     *Successor Corporation Substituted.*

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

**ARTICLE 6.  
DEFAULTS AND REMEDIES**

**Section 6.01**     *Events of Default.*

Each of the following is an “*Event of Default*.”

(a) default for 30 days in the payment when due of interest on the Notes;

(b) default in the payment when due of the principal of or premium, if any, on the Notes;

(c) the Company fails for 30 days after notice specifying the default from the Trustee or the Holders of at least 25% of the aggregate principal amount of the Notes then outstanding to comply with the provisions of Section 4.09 hereof;

(d) the Company or any of its Subsidiaries fails for 60 days after notice specifying the default from the Trustee or the Holders of at least 25% of the aggregate principal amount of the Notes then outstanding to comply with any of the other agreements in this Supplemental Indenture or the Notes;

(e) the Company or any of its Subsidiaries (other than a receivables securitization entity) defaults under any Indebtedness for money borrowed by the Company or any of its Subsidiaries (other than a receivables securitization entity) (or the payment of which is guaranteed by the Company or any of its Subsidiaries (other than a receivables securitization entity)) whether such Indebtedness or guarantee now exists, or is created after the date of this Supplemental Indenture, if that default:

(1) is caused by a failure to pay principal of or premium, if any, or interest on such Indebtedness on or before the expiration of the grace period provided in such Indebtedness on the date of such default (a “*Payment Default*”); or

(2) results in the acceleration of such Indebtedness prior to its express maturity;

28

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and in each case, (i) the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there is a Payment Default or the maturity of which has been so accelerated, aggregates \$75.0 million or more or its foreign currency equivalent and (ii) the Company has received notice specifying the default from the Trustee or Holders of at least 25% of the aggregate principal amount of Notes then outstanding and thereafter does not cure the default within 30 days;

(f) the Company or any of its Subsidiaries fails to pay final judgments aggregating in excess of \$75.0 million or its foreign currency equivalent, excluding amounts covered by insurance, which judgments are not paid, discharged or stayed for a period of 60 days;

(g) any Guarantee of a Significant Subsidiary is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Guarantor that is a Significant Subsidiary, or any Person acting on behalf of any Guarantor that is a Significant Subsidiary, denies or disaffirms its obligations under its Guarantee, in each case except as permitted by this Supplemental Indenture.

(h) the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law:

- (i) commences a voluntary case,
- (ii) consents to the entry of an order for relief against it in an involuntary case,
- (iii) consents to the appointment of a custodian of it or for all or substantially all of its property,
- (iv) makes a general assignment for the benefit of its creditors,
- (v) generally is not paying its debts as they become due; or

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

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

(ii) appoints a custodian of the Company or any of its Significant Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary or for all or substantially all of the property of the Company or any of its Significant Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary; or

(iii) orders the liquidation of the Company or any of its Significant Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary; and

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

#### **Section 6.02** *Acceleration.*

If any Event of Default (other than an Event of Default specified in clause (h) or (i) of Section 6.01 hereof) with respect to the Company, any Significant Subsidiary or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately. Upon any such declaration, the Notes will become due and payable immediately. Notwithstanding the foregoing, if an Event of Default specified in clause (h) or (i) of Section 6.01 hereof occurs with respect to the Company, any of its Significant Subsidiaries or any group of Subsidiaries that, taken as a whole, would constitute a Significant

Subsidiary, all outstanding Notes will be due and payable without further action or notice. Holders of the Notes may not enforce this Supplemental Indenture or the Notes except as provided in this Supplemental Indenture.

In the case of any Event of Default occurring by reason of any willful action (or inaction) taken (or not taken) by or on behalf of the Company with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Notes pursuant to the optional redemption provisions of this Supplemental Indenture, an equivalent premium will also become and be immediately due and payable to the extent permitted by law upon the acceleration of the Notes.

The Company is required to deliver to the Trustee annually a statement regarding compliance with this Supplemental Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

#### **Section 6.03** *Other Remedies.*

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

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

#### **Section 6.04** *Waiver of Past Defaults.*

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

#### **Section 6.05** *Control by Majority.*

Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Supplemental Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability.

#### **Section 6.06** *Limitation on Suits.*

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

- (a) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;

- (b) the Holders of at least 25% in principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;
- (c) such Holder of a Note or Holders of Notes offer and, if requested, provide to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense;

30

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(d) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of such security or indemnity; and

(e) during such 60-day period the Holders of a majority in aggregate principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

A Holder of a Note may not use this Supplemental Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to any Holder).

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

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

**Section 6.08** *Collection Suit by Trustee.*

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

**Section 6.09** *Trustee May File Proofs of Claim.*

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

**Section 6.10** *Priorities.*

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

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

31

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

*Third:* to the Company.

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

**Section 6.11** *Undertaking for Costs.*

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

**ARTICLE 7.  
TRUSTEE**

**Section 7.01** *Duties of Trustee.*

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

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

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

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Supplemental Indenture, but in the case of any such certificates of opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee will be under a duty to examine the same to determine whether or not they conform to the requirements of this Supplemental Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

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

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

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

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

32

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(d) Whether or not therein expressly so provided, every provision of this Supplemental Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), (c), (e) and (f) of this Section and Section 7.02.

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

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

#### **Section 7.02** *Rights of Trustee.*

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

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

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

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

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

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

(g) Whenever in the administration of this Supplemental Indenture, the Trustee will deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, conclusively rely upon an Officers' Certificate.

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

(i) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and

33

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premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

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

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

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

**Section 7.03** *Individual Rights of Trustee.*

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as Trustee (if this Supplemental Indenture has been qualified under the Trust Indenture Act) or resign. Any Agent may exercise the same rights, with the same duties, as the Trustee under this Section 7.03. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

**Section 7.04** *Trustee's Disclaimer.*

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

**Section 7.05** *Notice of Defaults.*

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

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

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

A copy of each report at the time of its mailing to the Holders of Notes will be mailed to the Company and filed with the SEC and each stock exchange on which the Notes are listed in accordance with TIA Section 313(d).

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The Company will promptly notify the Trustee when the Notes are listed on any stock exchange or delisted therefrom.

**Section 7.07** *Compensation and Indemnity.*

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

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

The obligations of the Company and the Guarantors under this Section 7.07 shall be joint and several and will survive the satisfaction and discharge of this Supplemental Indenture.

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

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

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

**Section 7.08** *Replacement of Trustee.*

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

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

- (a) the Trustee fails to comply with Section 7.10 hereof;
- (b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

35

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- (c) a custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting.

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

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

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

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

**Section 7.09** *Successor Trustee by Merger; Etc.*

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

**Section 7.10** *Eligibility; Disqualification.*

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

This Supplemental Indenture will always have a Trustee who satisfies the requirements of TIA Section 310(a)(1), (2) and (5). The Trustee is subject to TIA Section 310(b).

**Section 7.11** *Preferential Collection of Claims Against Company.*

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

**Section 7.12** *Trustee's Application for Instructions from the Company.*

Any application by the Trustee for written instructions from the Company may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Supplemental Indenture and the date on and/or after which such action will be taken or such omission will be effective. The Trustee will not be liable for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date will not be less than three Business Days after the date

36

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any officer of the Company actually receives such application, unless any such officer will have consented in writing to any earlier date) unless prior to the taking of such action (or the effective date in the case of an omission), the Trustee will have received written instructions in response to such application specifying the action to be taken or omitted.

**ARTICLE 8.**  
**LEGAL DEFEASANCE AND COVENANT DEFEASANCE**

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

The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, at any time, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.



## **Section 8.02**     *Legal Defeasance and Discharge.*

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company and the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from its obligations with respect to all outstanding Notes and to have each Guarantor's obligation discharged with respect to its Guarantee on the date the conditions set forth below are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Company and the Guarantors will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Supplemental Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Supplemental Indenture (and the Trustee, on demand of and at the expense of the Company, will execute proper instruments acknowledging the same), except for the following provisions which will survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive solely from the trust fund described in Section 8.04 hereof, and as more fully set forth in such Section, payments in respect of the principal of, interest on such Notes when such payments are due, (b) the Company's obligations with respect to the Notes under Article 2 and Section 4.02 hereof, (c) the rights, powers, trusts, duties and immunities of the Trustee, and the Company's and the Guarantors' obligations in connection therewith and (d) this Article 8. Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

## **Section 8.03**     *Covenant Defeasance.*

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

37

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## **Section 8.04**     *Conditions to Legal or Covenant Defeasance.*

The following will be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance:

- (a) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in United States dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities in such amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm of independent public accountants, to pay the principal of, or interest and premium, if any, on the outstanding Notes on the Stated Maturity or on the applicable Redemption Date, as the case may be, and the Company must specify whether the Notes are being defeased to maturity or to a particular Redemption Date;
- (b) in the case of an election under Section 8.02 hereof, the Company will have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that (A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (B) since the date of this Supplemental Indenture, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel will confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;
- (c) in the case of an election under Section 8.03 hereof, the Company will have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that the Holders of the outstanding Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
- (d) no Default or Event of Default will have occurred and be continuing on the date of such deposit, other than a Default or Event of Default resulting from the incurrence of Indebtedness all or a portion of the proceeds of which will be used to defease the Notes pursuant to this Article 8 concurrently with such incurrence, or insofar as Sections 6.01(h) or 6.01(i) hereof is concerned, at any time in the period ending on the 91st day after the date of deposit (and any similar concurrent deposit relating to other Indebtedness), and the granting of Liens to secure such borrowings;
- (e) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Supplemental Indenture and the agreements governing any other Indebtedness being defeased, discharged or replaced) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;
- (f) the Company will have delivered to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of the Notes over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding creditors of the Company or others; and
- (g) the Company will have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

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

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "*Trustee*") pursuant to Section 8.04 hereof in respect of the outstanding Notes will be held in trust and applied by the

Trustee, in accordance with the provisions of such Notes and this Supplemental Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

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

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

**Section 8.06**     *Repayment to Company.*

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

**Section 8.07**     *Reinstatement.*

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

**ARTICLE 9.**  
**AMENDMENT, SUPPLEMENT AND WAIVER**

**Section 9.01**     *Without Consent of Holders of Notes.*

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

- (a) to cure any ambiguity, defect or inconsistency;
- (b) to provide for uncertificated Notes in addition to or in place of certificated Notes;

39

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- (c) to provide for the assumption of the Company's or a Guarantor's obligations to the Holders of the Notes in the case of merger or consolidation or sale of all or substantially all of the Company's or such Guarantor's assets, applicable;
- (d) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under this Supplemental Indenture of any Holder of the Notes;
- (e) to comply with requirements of the SEC in order to effect or maintain the qualification of this Supplemental Indenture under the TIA;
- (f) to provide for the issuance of Additional Notes in accordance with this Supplemental Indenture;
- (g) to conform the text of this Supplemental Indenture, the Notes or the Guarantees to any provision of the Description of Notes to the extent that such provision in the Description of Notes was intended to be a verbatim recitation of a provision of this Supplemental Indenture, the Notes or the Guarantees;
- (h) to allow any Guarantor to execute a supplemental indenture and/or a Guarantee with respect to the Notes;
- (i) to evidence and provide for the acceptance of appointment by a successor trustee;
- (j) to add guarantees with respect to the Notes;
- (k) to secure the Notes; or
- (l) to release any Lien granted in favor of the Holders of the Notes pursuant to Section 4.07 hereof upon release of the Lien securing the underlying obligation that gave rise to such Lien.

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

**Section 9.02** *With Consent of Holders of Notes.*

Except as provided below in this Section 9.02, the Company, the Guarantors and the Trustee may amend or supplement this Supplemental Indenture (including Sections 3.09 and 4.09 hereof), the Guarantees and the Notes with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes, and, subject to Sections 6.04 and 6.07 hereof) and any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Supplemental Indenture, the Guarantees or the Notes may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Section 2.08 hereof will determine which Notes are considered to be “outstanding” for purposes of this Section 9.02.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee will join with the Company in the execution of such

40

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amended or supplemental indenture unless such amended or supplemental indenture directly affects the Trustee’s own rights, duties or immunities under this Supplemental Indenture or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amended or supplemental indenture.

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

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

- (a) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;
- (b) reduce the principal of or change the fixed maturity of any Note or alter or waive any of the provisions with respect to the redemption of the Notes except as provided above with respect to Sections 4.09 hereof;
- (c) reduce the rate of or change the time for payment of interest, including default interest, on any Note;
- (d) waive a Default or Event of Default in the payment of principal of or premium, if any, or interest on the Notes, except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration;
- (e) make any Note payable in money other than that stated in the Notes;
- (f) make any change in the provisions of this Supplemental Indenture relating to waivers of past Defaults or the rights of Holders of the Notes to receive payments of principal of or premium, interest on the Notes;
- (g) make any change in the foregoing amendment and waiver provisions; or
- (h) release any Guarantor that is a Significant Subsidiary from any of its obligations under its Guarantee or this Supplemental Indenture, except in accordance with the terms of this Supplemental Indenture.

**Section 9.03** *Compliance With Trust Indenture Act.*

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

**Section 9.04** *Revocation and Effect of Consents.*

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

41

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effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

**Section 9.05** *Notation on or Exchange of Notes.*

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

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

**Section 9.06** *Trustee to Sign Amendments, Etc.*

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

## **ARTICLE 10.**

### **NOTE GUARANTEES**

#### **Section 10.01**     *Guarantee.*

Subject to this Article 10, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Supplemental Indenture, the Notes or the obligations of the Company hereunder or thereunder, that: (a) the principal of and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

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

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

42

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

#### **Section 10.02**     *Limitation on Guarantor Liability.*

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

#### **Section 10.03**     *Execution and Delivery of Guarantee.*

To evidence its Guarantee set forth in Section 10.01, each Guarantor hereby agrees that a notation of such Guarantee substantially in the form included in Exhibit C will be endorsed by an Officer of such Guarantor on each Note authenticated and delivered by the Trustee and that this Supplemental Indenture will be executed on behalf of such Guarantor by an Officer.

Each Guarantor hereby agrees that its Guarantee set forth in Section 10.01 will remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Guarantee.

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

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

In the event that the Company creates or acquires any new Subsidiaries subsequent to the date of this Supplemental Indenture, if required by Section 4.10 hereof, the Company will cause such Subsidiaries to execute supplemental indentures to this Supplemental Indenture and Guarantees in accordance with Section 4.10 hereof and this Article 10, to the extent applicable.

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

A Guarantor may not sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into, whether or not such Guarantor is the surviving Person, another Person other than the Company or another Guarantor, unless:

- (a) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(b) either:

(1) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger, if other than the Guarantor or the Company, assumes all the obligations of such Guarantor under this Supplemental Indenture and its Guarantee pursuant to a supplemental indenture in the form of Exhibit C hereto; or

(2) such sale or other disposition does not violate the applicable provisions of this Supplemental Indenture.

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

Except as set forth in Article 5 hereof, and notwithstanding clauses (a) and (b) above, nothing contained in this Supplemental Indenture or in any of the Notes will prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or will prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor. Upon any such consolidation or merger of any Guarantor with or into another Guarantor or with or into the Company, the Guarantee of the Guarantor that does not survive will no longer be of any force or effect.

#### **Section 10.05** *Releases Following Sale of Assets, Etc..*

In the event of (a) any sale or other disposition of all or substantially all of the assets of any Guarantor, including by way of merger, consolidation or otherwise, to a Person that is not (either before or after giving effect to such transaction) the Company or a Subsidiary of the Company; (b) any sale or other disposition of all of the Capital Stock of a Guarantor, including by way of dividend of the Capital Stock of such Guarantor to the stockholders of the Company, to a Person that is not (either before or after giving effect to such transaction) the Company or a Subsidiary of the Company; (c) upon legal defeasance, covenant defeasance or satisfaction and discharge of this Indenture as provided in Article 8 and Article 11; or (d) upon release of such Guarantor's Guarantee of all other Indebtedness of the Company, then such Guarantor or the corporation acquiring the property will be released and relieved of any obligations under its Guarantee; *provided* that in the case of clause (a) or (b) such sale or other disposition does not violate the applicable provisions of this Supplemental Indenture. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the applicable provisions of this Supplemental Indenture, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Guarantee.

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

### **ARTICLE 11. SATISFACTION AND DISCHARGE**

#### **Section 11.01** *Satisfaction and Discharge.*

This Supplemental Indenture will be discharged and will cease to be of further effect as to all Notes issued hereunder, when:

(1) either:

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

(b) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and the Company or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in such amounts as will be sufficient without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on the Notes not delivered to the Trustee for cancellation for principal, premium and accrued interest to the date of maturity or redemption;

(2) no Default or Event of Default has occurred and is continuing on the date of such deposit or will occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

(3) the Company or any Guarantor has paid or caused to be paid all sums payable by it under this Supplemental Indenture; and

(4) the Company has delivered irrevocable instructions to the Trustee under this Supplemental Indenture to apply the deposited money toward the payment of the Notes at maturity or the Redemption Date, as the case may be.

In addition, the Company must deliver an Officers' Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

### **ARTICLE 12. MISCELLANEOUS**

#### **Section 12.01** *Trust Indenture Act Controls.*

If any provision of this Supplemental Indenture limits, qualifies or conflicts with the duties imposed by TIA Section 318(c), the imposed duties will control.

**Section 12.02** *Notices.*

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

If to the Company and/or any Guarantor:

Ball Corporation  
10 Longs Peak Drive  
Broomfield, Colorado 80021-2510  
Telecopier No.: (303) 460-2691  
Attention: Treasurer

With a copy to:

45

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Skadden, Arps, Slate, Meagher & Flom LLP  
155 North Wacker Drive  
Chicago, Illinois 60606  
Telecopier No.: (312) 407-0411  
Attention: Charles W. Mulaney, Jr., Esq.

If to the Trustee:

The Bank of New York Mellon Trust Company, N.A.  
700 S. Flower Street, Suite 500  
Los Angeles, CA 90017  
Telecopier No.: (213) 630-6298  
Attention: Corporate Trust Administration

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

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

Any notice or communication to a Holder will be mailed by first class mail postage prepaid, certified or registered mail, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication will also be so mailed to any Person described in TIA Section 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it will not affect its sufficiency with respect to other Holders.

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

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

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods. If the party elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

**Section 12.03** *Communication by Holders of Notes with Other Holders of Notes.*

Holders may communicate pursuant to TIA Section 312(b) with other Holders with respect to their rights under this Supplemental Indenture or the Notes. The Company, the Trustee, the Registrar and anyone else will have the protection of TIA Section 312(c).

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

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

46

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

(b) except with respect to the initial issuance of the Notes, an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which will include the statements set forth in Section 12.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

**Section 12.05** *Statements Required in Certificate and Opinion.*

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Supplemental Indenture (other than a certificate provided pursuant to TIA Section 314(a)(4)) will comply with the provisions of TIA Section 314(e) and will include:

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

**Section 12.06** *Rules by Trustee and Agents.*

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

**Section 12.07** *Calculation of Foreign Currency Amounts.*

The calculation of the U.S. dollar equivalent amount for any amount denominated in a foreign currency will be the noon buying rate in the City of New York as certified by the Federal Reserve Bank of New York on the date on which such determination is required to be made or, if such day is not a day on which such rate is published, the rate most recently published prior to such day.

**Section 12.08** *No Personal Liability of Directors, Officers, Employees and Stockholders.*

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

**Section 12.09** *Governing Law; Waiver of Jury Trial.*

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

47

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EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS SUPPLEMENTAL INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

**Section 12.10** *Force Majeure.*

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

**Section 12.11** *No Adverse Interpretation of Other Agreements.*

This Supplemental Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Supplemental Indenture.

**Section 12.12** *Successors.*

All agreements of the Company in this Supplemental Indenture and the Notes will bind its successors. All agreements of the Trustee in this Supplemental Indenture will bind its successors.

**Section 12.13** *Severability.*

In case any provision in this Supplemental Indenture or in the Notes will be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

**Section 12.14** *Counterpart Originals.*

The parties may sign any number of copies of this Supplemental Indenture. Each signed copy will be an original, but all of them together represent the same agreement.

**Section 12.15** *Table of Contents, Headings, Etc.*

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this Supplemental Indenture and will in no way modify or restrict any of the terms or provisions hereof.

[Signatures on following page]

## SIGNATURES

Dated as of March 9, 2012

Ball Corporation

By: /s/ Charles E. Baker

Name: Charles E. Baker  
 Title: Vice President

Ball Aerosol and Specialty Container Holding Corporation  
 Ball Aerosol and Specialty Container Inc.  
 Ball Metal Beverage Container Corp.  
 Ball Metal Food Container Corp.  
 Ball Packaging Corp.  
 Latas de Aluminio Ball, Inc.  
 USC May Verpackungen Holding Inc.  
 Ball Advanced Aluminum Technologies Corp.  
 Ball Aerospace & Technologies Corp.  
 Ball Technologies Holdings Corp.  
 Ball Holdings Corp.

By: /s/ Jeff A. Knobel

Name: Jeff A. Knobel  
 Title: Treasurer

Ball Corporation, a Nevada corporation  
 Ball Glass Containers, Inc.  
 Ball Plastic Container Corp.  
 Ball Container LLC  
 Ball Holdings LLC

By: /s/ Charles E. Baker

Name: Charles E. Baker  
 Title: President and Secretary

Ball Metal Container Corporation  
 Ball Metal Food Container, LLC

By: /s/ Charles E. Baker

Name: Charles E. Baker  
 Title: Secretary

Ball Pan-European Holdings, Inc.

By: /s/ Charles E. Baker

Name: Charles E. Baker  
 Title: Assistant Secretary

Ball Delaware Holdings, LLC  
 Ball Asia Services Limited

By: /s/ Charles E. Baker

Name: Charles E. Baker  
 Title: Vice President and Secretary

The Bank of New York Mellon Trust Company, N.A.,  
 as Trustee

By: /s/ Alex Briffett



[FACE OF NOTE]

[INSERT THE GLOBAL NOTE LEGEND, IF APPLICABLE PURSUANT TO THE PROVISIONS OF THE SUPPLEMENTAL INDENTURE]

**5% SENIOR NOTES DUE 2022**

ISIN No.: \_\_\_\_\_ \$  
CUSIP No.: \_\_\_\_\_

**BALL CORPORATION**

promises to pay \_\_\_\_\_ or registered assigns, the principal sum of \$ \_\_\_\_\_ on March 15, 2022.

Interest Payment Dates: March 15<sup>th</sup> and September 15<sup>th</sup>

Record Dates: March 1<sup>st</sup> and September 1<sup>st</sup>

Dated: March 9, 2012

**BALL CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date of Authentication: \_\_\_\_\_

This is one of the Global Notes referred to in the within-mentioned Supplemental Indenture:

Dated: \_\_\_\_\_

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

A-1

[Back of Note]

**5% Senior Notes due 2022**

Capitalized terms used herein have the meanings assigned to them in the Supplemental Indenture referred to below unless otherwise indicated.

1. **INTEREST.** Ball Corporation, an Indiana corporation (the “*Company*”), promises to pay interest on the principal amount of this Note at 5% per annum from the date hereof until maturity. The Company will pay interest semi-annually on March 15 and September 15 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each an “*Interest Payment Date*”). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest will accrue from such next succeeding Interest Payment Date; *provided, further*, that the first Interest Payment Date will be \_\_\_\_\_. The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

2. **METHOD OF PAYMENT.** The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the March 1 or September 1 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Supplemental Indenture with respect to defaulted interest. Principal, premium, if any, and interest on the Notes will be payable at the office or agency of the Paying Agent and Registrar within the City and State of New York or, at the option of the Company, payment of interest may be made by check mailed to the Holders of the Notes at their respective addresses set forth in the register of Holders of Notes; *provided* that all payments of principal, premium and interest with respect to Notes the Holders of which have given wire transfer instructions to the Trustee will be required to be made by wire transfer of immediately available funds to the accounts specified by the Holders thereof. Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. *PAYING AGENT AND REGISTRAR.* Initially, The Bank of New York Mellon Trust Company, N.A., the Trustee under the Supplemental Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. *INDENTURE.* This Note is one of a duly authenticated series of securities of the Company issued and to be issued in one or more series under an indenture (the “*Base Indenture*”), dated as of March 27, 2006, between the Company and the Trustee, as amended by the Seventh Supplemental Indenture (the “*Supplemental Indenture*” and, together with the Base Indenture, the “*Indenture*”), dated as of March 9, 2012, among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Supplemental Indenture and those made part of the Supplemental Indenture by reference to the Trust Indenture Act of 1939, as amended (15 U.S. Code Sections 77aaa-77bbb). The Notes are subject to all such terms, and Holders are referred to the Supplemental Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Base Indenture, the provisions of this Note will govern and be controlling, and to the extent any

A-2

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provision of this Note conflicts with the express provisions of the Supplemental Indenture, the provisions of the Supplemental Indenture will govern and be controlling. The Company will be entitled to issue Additional Notes pursuant to Section 2.14 of the Supplemental Indenture.

5. *OPTIONAL REDEMPTION.*

The Company may redeem the Notes at any time in whole, or from time to time in part, in each case, at its option, at a redemption price equal to the greater of (1) 100% of the principal amount of the Notes to be redeemed and (2) the sum of the present values of the remaining scheduled payments of principal and interest on such Notes discounted to the date of redemption (excluding interest accrued to the date of redemption), on a semiannual basis, at a rate equal to the sum of the Treasury Rate plus 50 basis points, plus in each case, accrued and unpaid interest, if any, to but excluding the redemption date. The redemption prices will be calculated assuming a 360-day year consisting of twelve 30-day months.

Notwithstanding the foregoing, installments of interest on the Notes that are due and payable on interest payment dates falling on or prior to a redemption date will be payable on the interest payment date to the registered holders as of the close of business on the relevant record date according to the Notes and the Supplemental Indenture.

For purposes of the foregoing, the following definitions apply:

“*Comparable Treasury Issue*” means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the remaining term (as measured from the date of redemption) of the Notes that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes.

“*Comparable Treasury Price*” means, with respect to any redemption date, (i) the average of the Reference Treasury Dealer Quotations obtained by the Company for that redemption date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, (ii) if we are unable to obtain at least four such Reference Treasury Dealer Quotations, the average of all Reference Treasury Dealer Quotations obtained by the Company, or (iii) if only one Reference Treasury Dealer Quotation is received, such quotation.

“*Independent Investment Banker*” means Merrill Lynch, Pierce, Fenner & Smith Incorporated, or, if such firm is unwilling or unable to select the applicable Comparable Treasury Issue, an independent investment banking institution of national standing appointed by the Company.

“*Reference Treasury Dealer*” means (i) Merrill Lynch, Pierce, Fenner & Smith Incorporated (or its affiliates that are Primary Treasury Dealers) and their respective successors; *provided, however*, that if any of the foregoing shall cease to be a primary U.S. government securities dealer in New York City (a “*Primary Treasury Dealer*”), Ball may substitute another institution to act as a Primary Treasury Dealer, and (ii) at least two other Primary Treasury Dealers selected by the Company.

“*Reference Treasury Dealer Quotations*” means, with respect to each Reference Treasury Dealer and any redemption date for the Notes, an average, as determined by the Company, of the bid and asked prices for the Comparable Treasury Issue for the Notes, expressed in each case as a percentage of its principal amount, quoted in writing to the Company by the Reference Treasury Dealer at 3:30 p.m., New York City time, on the third business day preceding the redemption date.

“*Treasury Rate*” means, with respect to any redemption date applicable to the Notes, the rate per annum equal to the semi-annual equivalent yield to maturity, computed as of the third business day immediately preceding the redemption date, of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue, expressed as a percentage of its principal amount, equal to the applicable Comparable Treasury Price for the redemption date.

A-3

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6. *MANDATORY REDEMPTION.* The Company is not required to make mandatory redemption payments with respect to the Notes.

7. *REPURCHASE AT OPTION OF HOLDER UPON A CHANGE OF CONTROL REPURCHASE EVENT.*

(a) If a Change of Control Repurchase Event occurs, unless the Company has exercised its right to redeem the Notes as described under clause (5) above within 60 days after the Change of Control, the Company will make an offer (a “*Change of Control Offer*”) to each holder of notes to repurchase all or any part, equal to \$2,000 or an integral multiple of \$1,000 in excess thereof, of each Holder’s Notes at a repurchase price in cash equal to 101% of the aggregate principal amount of the Notes repurchased plus accrued and unpaid interest on the Notes repurchased to but excluding the date of repurchase (the “*Change of Control Payment*”). Within 30 days following any Change of Control Repurchase Event or, at the Company’s option, prior to the consummation of the Change of Control transaction, but after the public announcement thereof, the Company will send a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Supplemental Indenture. If sent prior to the date of consummation of the Change of Control transaction, the notice will state that the Change of Control Offer is conditioned on a Change of Control Repurchase Event occurring prior to the Change of Control Payment Date.

8. *NOTICE OF REDEMPTION.* Notice of redemption will be mailed at least 30 days but not more than 60 days before the Redemption Date to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$2,000 may be redeemed in part but only in whole multiples of \$1,000 in excess thereof, unless all of the Notes held by a Holder are to be redeemed. On and after the Redemption Date interest ceases to accrue on Notes or portions thereof called for redemption.

9. *DENOMINATIONS, TRANSFER, EXCHANGE.* The Notes are in registered form without coupons in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. Notes may be transferred or exchanged as provided in the Supplemental Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Supplemental Indenture. The Company need not exchange or transfer any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

10. *PERSONS DEEMED OWNERS.* The registered Holder of a Note may be treated as its owner for all purposes.

11. *AMENDMENT, SUPPLEMENT AND WAIVER.* The Base Indenture may be amended as provided therein. Subject to certain exceptions, the Supplemental Indenture, the Guarantees or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding, including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes, voting as a single class, and any existing default or compliance with any provision of the Supplemental Indenture, the Guarantees or the Notes may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes, including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes, voting as a single class. Without the consent of any Holder of a Note, the Supplemental Indenture, the Guarantees or the Notes may be amended or supplemented (i) to cure any ambiguity, defect or inconsistency; (ii) to provide for uncertificated Notes in addition to or in place of certificated Notes; (iii) to provide for the assumption of the Company's or a Guarantor's obligations to Holders of the Notes in case of a merger or consolidation or sale of all or substantially all of the Company's or Guarantor's assets, as applicable (iv) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights

A-4

under the Supplemental Indenture of any such Holder; (v) to comply with the requirements of the SEC in order to effect or maintain the qualification of the Supplemental Indenture under the Trust Indenture Act; (vi) to provide for the issuance of Additional Notes in accordance with the Supplemental Indenture; (vii) to conform the text of the Supplemental Indenture, the Notes or the Guarantees to any provision of the Description of Notes to the extent that such provision in the Description of Notes was intended to be a verbatim recitation of a provision of the Supplemental Indenture, the Notes or the Guarantees; (viii) to allow any Guarantor to execute a supplemental indenture to the Supplemental Indenture and/or a Guarantee with respect to the Notes; (ix) to evidence and provide for the acceptance of appointment by a successor trustee; (x) to add Guarantees with respect to the Notes; (xi) to secure the Notes; or (xii) to release any Lien granted in favor of the Holders of the Notes pursuant to Section 4.07 of the Supplemental Indenture upon release of the Lien securing the underlying obligation that gave rise to such Lien.

12. *DEFAULTS AND REMEDIES.* Each of the following is an "EVENT OF DEFAULT": (i) default for a period of 30 days in the payment when due of interest on the Notes; (ii) default in the payment when due of the principal of or premium, if any, on the Notes; (iii) the Company or any of its Subsidiaries fails for 30 days after notice specifying the default from the Trustee or Holders of at least 25% of the aggregate principal amount of Notes then outstanding to comply with any of the provisions of Sections 4.09 of the Supplemental Indenture; (iv) the Company or any of its Subsidiaries fails for 60 days after notice specifying the default from the Trustee or Holders of at least 25% of the aggregate principal amount of Notes then outstanding to comply with any of the other agreements in the Supplemental Indenture or the Notes; (v) the Company or any of its Subsidiaries (other than a receivables securitization entity) defaults under any Indebtedness for money borrowed by the Company or any of its Subsidiaries (other than a receivables securitization entity) (or the payment of which is guaranteed by the Company or any of its Subsidiaries (other than a receivables securitization entity)) whether such Indebtedness or guarantee now exists, or is created after the date of this Supplemental Indenture, if that default (a) is caused by a failure to pay principal of or premium, if any, or interest on such Indebtedness on or before the expiration of the grace period provided in such Indebtedness on the date of such default (a "Payment Default") or (b) results in the acceleration of such Indebtedness prior to its express maturity and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there is a Payment Default or the maturity of which has been so accelerated, aggregates \$75.0 million or more or its foreign currency equivalent, and in each case the Company has received notice specifying the default from the Trustee or Holders of at least 25% of the aggregate principal amount of Notes then outstanding and thereafter does not cure the default within 30 days; (vi) the Company or any of its Subsidiaries fails to pay final judgments aggregating in excess of \$75.0 million or its foreign currency equivalent, excluding amounts covered by insurance, which judgments are not paid, discharged or stayed for a period of 60 days; (vii) any Guarantee of a Significant Subsidiary is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect or any Guarantor that is a Significant Subsidiary, or any Person acting on behalf of any Guarantor that is a Significant Subsidiary, denies or disaffirms its obligations under such Guarantor's Guarantee, in each case except as permitted by the Supplement Indenture; or (viii) certain events of bankruptcy or insolvency occur with respect to the Company or any of its Subsidiaries that is a Significant Subsidiary or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law.

If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, with respect to the Company or any Subsidiary of the Company that is a Significant Subsidiary or any group of Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law, all outstanding Notes will become due and payable without further action or notice. Holders may not enforce the Supplemental Indenture or the Notes except as provided in the Supplemental Indenture. Subject to certain limitations, Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default if it determines that withholding notice is in their interest, except a Default or Event of Default relating to the payment of principal or interest. The Holders of a majority in aggregate principal amount of

A-5

the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences under the Supplemental Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Notes. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Supplemental Indenture, and the Company is required upon becoming aware of any Default or Event of Default, to deliver to the Trustee a statement specifying such Default or Event of Default.

13. *TRUSTEE DEALINGS WITH COMPANY.* The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its affiliates, and may otherwise deal with the Company or its affiliates, as if it were not the Trustee.

14. *NO RECOURSE AGAINST OTHERS.* A director, officer, employee, incorporator or stockholder, of the Company or any Guarantor, as such, will not have any liability for any obligations of the Company or the Guarantors under the Notes, the Guarantees or the Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

15. *AUTHENTICATION.* This Note will not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

16. *ABBREVIATIONS.* Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

17. *CUSIP NUMBERS.* Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon. The Company will furnish to any Holder upon written request and without charge a copy of the Base Indenture, the Supplemental Indenture and the Guarantees. Requests may be made to:

Ball Corporation  
10 Longs Peak Drive  
Broomfield, Colorado 80021-2510  
Telecopier No.: (303) 460-2691  
Attention: Chief Financial Officer

A-6

#### ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: \_\_\_\_\_

(Insert assignee's legal name)

(Insert assignee's soc. sec. or tax I.D. no.)

(Print or type assignee's name, address and zip code)

and irrevocably appoint \_\_\_\_\_  
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(sign exactly as your name appears on the face of this senior note)

Tax Identification No: \_\_\_\_\_

Signature Guarantee: \_\_\_\_\_

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

A-7

#### Option of Holder to Elect Purchase

If you want to elect to have this Note purchased by the Company pursuant to Section 4.09 of the Supplemental Indenture, check the box below:

☐ Section 4.09

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.09 of the Supplemental Indenture, state the amount you elect to have purchased: \$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(sign exactly as your name appears on the face of this senior note)

Tax Identification No: \_\_\_\_\_

Signature Guarantee: \_\_\_\_\_

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

A-8

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**EXHIBIT B**

**FORM OF NOTATION OF GUARANTEE**

For value received, each Guarantor (which term includes any successor Person under the Supplemental Indenture) has, jointly and severally, unconditionally guaranteed, to the extent set forth in the Supplemental Indenture and subject to the provisions in the indenture (the “*Base Indenture*”), dated as of March 27, 2006, between Ball Corporation, (the “*Company*”) and The Bank of New York Mellon Trust Company, N.A. (f/k/a The Bank of New York Trust Company, N.A.), as trustee (the “*Trustee*”), as amended by the Seventh Supplemental Indenture (the “*Seventh Supplemental Indenture*” and, together with the Base Indenture, the “*Indenture*”), dated as of March 9, 2012, among the Company, the Guarantors named on the signature pages thereto and the Trustee, (a) the due and punctual payment of the principal of, premium, if any, and interest on the Notes (as defined in the Seventh Supplemental Indenture), whether at maturity, by acceleration, redemption or otherwise, the due and punctual payment of interest on overdue principal and premium, and, to the extent permitted by law, interest, and the due and punctual performance of all other obligations of the Company to the Holders or the Trustee all in accordance with the terms of the Seventh Supplemental Indenture and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. The obligations of the Guarantors to the Holders of Notes and to the Trustee pursuant to the Guarantee and the Seventh Supplemental Indenture are expressly set forth in Article 10 of the Seventh Supplemental Indenture and reference is hereby made to the Seventh Supplemental Indenture for the precise terms of the Guarantee. Each Holder of a Note, by accepting the same, agrees to and will be bound by such provisions and appoints the Trustee attorney-in-fact of such Holder for such purpose.

[Name of Guarantor(s)]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

B-1

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**EXHIBIT C**

**FORM OF SUPPLEMENTAL INDENTURE  
TO BE DELIVERED BY SUBSEQUENT GUARANTORS**

SUPPLEMENTAL INDENTURE (this “*Supplemental Indenture*”), dated as of \_\_\_\_\_, 20\_\_\_\_, among \_\_\_\_\_ (the “*Guaranteeing Subsidiary*”), a subsidiary of Ball Corporation (or its permitted successor), an Indiana corporation (the “*Company*”), the Company, the other Guarantors (as defined in the Seventh Supplemental Indenture referred to herein) and The Bank of New York Mellon Trust Company, N.A., as trustee under the Seventh Supplemental Indenture referred to below (the “*Trustee*”).

**W I T N E S S E T H**

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the “*Base Indenture*”), dated as of March 27, 2006, between the Company and the Trustee, as amended by a Seventh Supplemental Indenture (the “*Seventh Supplemental Indenture*” and, together with the Base Indenture, the “*Indenture*”), dated as of March 9, 2012, among the Company, the Guarantors named therein and the Trustee, providing for the original issuance of an aggregate principal amount of \$750.0 million of 5% Senior Notes due 2022 (the “*Notes*”);

WHEREAS, the Seventh Supplemental Indenture provides that under certain circumstances the Guaranteeing Subsidiary will execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary will unconditionally guarantee all of the Company’s obligations under the Notes and the Indenture on the terms and conditions set forth herein (the “*Note Guarantee*”); and

WHEREAS, pursuant to Section 9.01 of the Seventh Supplemental Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. *Capitalized Terms.* Capitalized terms used herein without definition will have the meanings assigned to them in the Seventh Supplemental Indenture.
2. *Agreement to Guarantee.* The Guaranteeing Subsidiary hereby agrees as follows:
  - (a) Along with all Guarantors named in the Seventh Supplemental Indenture, to jointly and severally Guarantee to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, the Notes or the obligations of the Company hereunder or thereunder, that:
    - (i) the principal of, and premium, if any, and interest on the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and
    - (ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed or any performance so

C-1

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guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately.

(b) The obligations hereunder will be unconditional, irrespective of the validity, regularity or enforceability of the Notes or the Seventh Supplemental Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a Guarantor.

(c) The following is hereby waived: diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever.

(d) This Note Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and the Seventh Supplemental Indenture, and the Guaranteeing Subsidiary accepts all obligations of a Guarantor under the Seventh Supplemental Indenture.

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

(f) The Guaranteeing Subsidiary will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby.

(g) As between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 of the Seventh Supplemental Indenture for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 of the Seventh Supplemental Indenture, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Note Guarantee.

(h) The Guarantors will have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Note Guarantee.

(i) Pursuant to Section 10.02 of the Seventh Supplemental Indenture, after giving effect to any maximum amount and all other contingent and fixed liabilities that are relevant under any applicable Bankruptcy or fraudulent conveyance laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under Article 10 of the Seventh Supplemental Indenture, this new Note Guarantee will be limited to the maximum amount permissible such that the obligations of such Guarantor under this Note Guarantee will not constitute a fraudulent transfer or conveyance.

3. *Execution and Delivery.* Each Guaranteeing Subsidiary agrees that the Note Guarantees will remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Note Guarantee.

C-2

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4. Guaranteeing Subsidiary may Consolidate, etc. on Certain Terms.

(a) The Guaranteeing Subsidiary may not sell or otherwise dispose of all substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Company or another Guarantor unless:

(i) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(ii) either (A) subject to Sections 10.04 and 10.05 of the Seventh Supplemental Indenture, the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the obligations of that Guarantor, pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee, under the Notes, the Seventh Supplemental Indenture and the Note Guarantee on the terms set forth herein or therein; or (B) such sale or other disposition does not violate the applicable provisions of the Seventh Supplemental Indenture.

(b) In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Note Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of the Seventh Supplemental Indenture to be performed by the Guarantor, such successor Person will succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or all of the Note Guarantees to be endorsed upon all of the Notes issuable under the Seventh Supplemental Indenture which theretofore will not have been signed by the Company and delivered to the Trustee. All the Note Guarantees so issued will in all respects have the same legal rank and benefit under the Seventh Supplemental Indenture as the Note Guarantees theretofore and thereafter issued in accordance with the terms of the Seventh Supplemental Indenture as though all of such Note Guarantees had been issued at the date of the execution hereof.

(c) Except as set forth in Articles 4 and 5 and Section 10.05 of Article 10 of the Seventh Supplemental Indenture, and notwithstanding clauses (a) and (b) above, nothing contained in the Seventh Supplemental Indenture or in any of the Notes will prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or will prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

5. Releases.

(a) In the event of any sale or other disposition of all or substantially all of the assets of any Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all of the capital stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transaction) a Subsidiary of the Company, then such Guarantor (in the event of a sale or other disposition, by way of merger, consolidation or otherwise, of all of the capital stock of such Guarantor) or the corporation acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such Guarantor) will be released and relieved of any obligations under its Note Guarantee; *provided* that such sale or other disposition does not violate the applicable provisions of the Supplemental Indenture. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of the Seventh Supplemental Indenture, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee.

C-3

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(b) Any Guarantor not released from its obligations under its Note Guarantee will remain liable for the full amount of principal of and interest on the Notes and for the other obligations of any Guarantor under the Seventh Supplemental Indenture as provided in Article 10 of the Seventh Supplemental Indenture.

6. *No Recourse Against Others.* No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guaranteeing Subsidiary, as such, will have any liability for any obligations of the Company or any Guaranteeing Subsidiary under the Notes, any Note Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

7. *New York Law to Govern.* **THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE BUT WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.**

8. *Counterparts.* The parties may sign any number of copies of this Supplemental Indenture. Each signed copy will be an original, but all of them together represent the same agreement.

9. *Effect of Headings.* The Section headings herein are for convenience only and will not affect the construction hereof.

10. *The Trustee.* The Trustee will not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Company.

C-4

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IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated:       , 20

[GUARANTEEING SUBSIDIARY]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[COMPANY]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[EXISTING GUARANTORS]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[TRUSTEE],  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

C-5

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**BALL CORPORATION**  
10 Longs Peak Drive  
Broomfield, Colorado 80021-2510

March 9, 2012

Ball Corporation  
10 Longs Peak Drive,  
P.O. Box 5000  
Broomfield, Colorado 80021-2510

Re: Ball Corporation \$750,000,000 5% Notes due 2022

Ladies and Gentlemen:

I am General Counsel of Ball Corporation, an Indiana corporation (the "Company"), and have acted as counsel to the Company, in connection with the Underwriting Agreement, dated February 24, 2012 (the "Underwriting Agreement"), between Merrill Lynch, Pierce, Fenner & Smith Incorporated, as representative of the several underwriters named therein (the "Underwriters"), and the Company, relating to the sale by the Company to the Underwriters of \$750,000,000 aggregate principal amount of the Company's 5% Notes due 2022 (the "Notes") to be issued under the Indenture, dated as of March 27, 2006 (the "Base Indenture"), among the Company, the subsidiary guarantors named on Schedule I hereto (the "Colorado Guarantors"), the subsidiary guarantors named on Schedule II hereto (the "Other Guarantors" and, together with the Colorado Guarantors, the "Subsidiary Guarantors"), and The Bank of New York Mellon Trust Company, N.A. (formerly known as The Bank of New York

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Trust Company), as trustee (the "Trustee"), as supplemented by the Seventh Supplemental Indenture, dated as of March 9, 2012, among the Company, the Subsidiary Guarantors and the Trustee (the "Seventh Supplemental Indenture" and, together with the Base Indenture, the "Indenture"), establishing the form and terms of the Notes. The Underwriting Agreement, the Indenture and the Note Certificate (as defined below) are referred to herein collectively as the "Transaction Documents."

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act of 1933, as amended (the "Securities Act").

In rendering the opinions set forth herein, I have examined and relied on originals or copies of the following:

- (a) the registration statement on Form S-3 (File No. 333-179639) of the Company relating to the Notes and other securities of the Company filed with the Securities and Exchange Commission (the "Commission") under the Securities Act on February 23, 2012, allowing for delayed offerings pursuant to Rule 415 of the General Rules and Regulations under the Securities Act (the "Rules and Regulations") including information deemed to be a part of the registration statement pursuant to Rule 430B of the Rules and Regulations (such registration statement, as so amended, being hereinafter referred to as the "Registration Statement");
- (b) an executed copy of the Underwriting Agreement;
- (c) an executed copy of the Indenture, including Article 10 thereof which includes the guarantee obligations of the Subsidiary Guarantors (the "Guarantee");
- (d) the global certificate evidencing the Notes registered in the name of Cede & Co. (the "Note Certificate") in the form delivered by the Company to the Trustee for authentication and delivery;
- (e) the certificates of incorporation of each of the Colorado Guarantors, as certified by the Secretary of State of the State of Colorado; and (2) the bylaws of each of the Colorado Guarantors;
- (f) resolutions of the Board of Directors of each of the Colorado Guarantors, each adopted on February 23, 2012; and

2

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- (g) copies of certificates, dated March [8], 2012, and a bringdown verification dated the date hereof, from the Secretary of State of the State of Colorado with respect to the Colorado Guarantors' existence and good standing in the State of Colorado.

I have also examined originals or copies, certified or otherwise identified to my satisfaction, of such records of the Company, the Subsidiary Guarantors and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company, the Subsidiary Guarantors and others, and such other documents as I have deemed necessary or appropriate as a basis for the opinions set forth below.

In my examination, I have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making my examination of executed documents, I have assumed that the parties thereto, other than the Colorado Guarantors, had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties of such documents and, except to the extent expressly set forth in my opinion below, the validity and binding effect thereof on such parties. I have also assumed that each of the Company and the Other Guarantors has been duly organized and is validly existing in good standing, and has requisite legal status and legal capacity, under the laws of its jurisdiction of organization and that each of the Company and the Other Guarantors has complied and will comply with all aspects of the laws of all relevant jurisdictions (including the laws of the States of Delaware, Indiana and Nevada) in connection with the transactions contemplated by, and the performance of its obligations under, the Transaction Documents, other than the laws of the State of Colorado insofar as I express my opinion herein. I have also assumed that the terms of the Notes and the Guarantee have been established so as not to, and that the execution and delivery by the Company and the Subsidiary Guarantors of the Transaction Documents and the performance by the Company and the Subsidiary Guarantors of their obligations thereunder, do not and will not violate, conflict with or constitute a default under (i) any agreement or instrument to which any of the Company or the Subsidiary Guarantors or any of their properties are subject (except that I do not make the assumption set



forth in this clause (i) with respect to those agreements and instruments which are listed in Part II of the Registration Statement or the Company's Annual Report on Form 10-K), (ii) any law, rule, or regulation to which the Company or the Subsidiary Guarantors or any of their

3

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properties are subject (except that I do not make the assumption set forth in this clause (ii) with respect to the Opined on Law (as defined below)), (iii) any judicial or regulatory order or decree of any governmental authority or (iv) any consent, approval, license, authorization or validation of, or filing, recording or registration with, any governmental authority. As to any facts material to the opinion expressed herein that I did not independently establish or verify, I have relied upon statements and representations of officers and other representatives of the Company, the Subsidiary Guarantors and others and of public officials.

My opinions set forth herein are limited to those laws of the State of Colorado that, in my experience, are normally applicable to transactions of the type contemplated by the Registration Statement and, to the extent that judicial or regulatory orders or decrees or consents, approvals, licenses, authorizations, validations, filings, recordings or registrations with governmental authorities are relevant, to those required under such laws (all of the foregoing being referred to as "Opined-on-Law"). I do not express any opinion with respect to the law of any jurisdiction other than Opined-on-law or as to the effect of any such Opined-on-Law on the opinions herein stated.

Based upon the foregoing and subject to the limitations, qualifications, exceptions and assumptions set forth herein, I am of the opinion that:

(1) Each of the Colorado Guarantors is duly formed and is validly existing and in good standing under the laws of the State of Colorado.

(2) The Colorado Guarantors have the corporate or limited liability company power and authority to execute and deliver the Transaction Documents and to consummate the transactions contemplated thereby under the laws of the State of Colorado.

(3) Assuming the Note Certificates have been duly authenticated by the Trustee and issued and delivered by the Company against payment therefor in accordance with the terms of the Underwriting Agreement and the Indenture, the Notes will constitute valid and binding obligations of the Company, entitled to the benefits of the Indenture and enforceable against the Company in accordance with their terms.

(4) The Indenture, including the Guarantee set forth in Article 10 thereof, is a valid and binding obligation of the Subsidiary Guarantors enforceable against the Subsidiary Guarantors in accordance with its terms.

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The opinions set forth above are subject to the following further qualifications, assumptions and limitations:

(a) the opinions stated herein are limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer, preference and other similar laws affecting creditors' rights generally, and by general principles of equity (regardless of whether enforcement is sought in equity or at law);

(b) except to the extent expressly stated in the opinions contained herein, I do not express any opinion with respect to the effect on the opinions stated herein of (i) the compliance or non-compliance of any party to any of the Transaction Documents with any laws, rules or regulations applicable to such party or (ii) the legal status or legal capacity of any such party to any of the Transaction Documents;

(c) I do not express any opinion with respect to any law, rule or regulation that is applicable to any party to any of the Transaction Documents or the transactions contemplated thereby solely because such law, rule or regulation is part of a regulatory regime applicable to any such party or any of its affiliates as a result of the specific assets or business operations of such party or such affiliates;

(d) I do not express any opinion with respect to the enforceability of Article 10 of the Indenture to the extent that such section provides that the obligations of the Subsidiary Guarantors are absolute and unconditional irrespective of the enforceability or genuineness of the Indenture or the effect thereof on the opinions herein stated; and

(e) I do not express any opinion with respect to the enforceability of the provisions contained in Article 10 of the Indenture to the extent that such provisions limit the obligation of the Subsidiary Guarantors under the Indenture.

The opinions expressed herein are limited to the laws of the State of Colorado and I do not express any opinion herein concerning any other law. The Indenture provides that it is governed by the laws of the State of New York. To the extent that the opinion expressed herein relates to matters governed by the laws of the State of New York, I have relied, with their permission, as to all matters of New York law, on the opinion of Skadden, Arps, Slate, Meagher & Flom LLP dated the date hereof, which is filed herewith as Exhibit 5.3 to the Company's Current Report on Form 8-K, and my opinion is subject to the exceptions, qualifications and assumptions contained in such opinion.

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I hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Company's Current Report on Form 8-K, dated the date hereof. I also hereby consent to the use of my name under the heading "Legal Matters" in the prospectus which forms a part of the Registration Statement. In giving this consent, I do not thereby admit that I am within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder. This opinion is expressed as of the date hereof unless otherwise expressly stated, and I disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Very truly yours,

/s/ Charles E. Baker

6

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**Schedule I**  
**Colorado Guarantors**

Ball Plastic Container Corp., Colorado corporation  
Ball Technologies Holdings Corp., a Colorado corporation  
Ball Packaging Corp., a Colorado corporation  
Ball Metal Beverage Container Corp., a Colorado corporation

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**Schedule II**  
**Other Guarantors**

Ball Advanced Aluminum Technologies Corp., a Delaware corporation  
Ball Aerosol and Specialty Container Holding Corporation, a Delaware corporation  
Ball Aerosol and Specialty Container Inc. , a Delaware corporation  
Ball Aerospace & Technologies Corp. , a Delaware corporation  
Ball Asia Services Limited, a Delaware corporation  
Ball Container LLC, a Delaware corporation  
Ball Delaware Holdings, LLC, a Delaware corporation  
Ball Glass Containers, Inc., a Delaware corporation  
Ball Holdings Corp., a Delaware corporation  
Ball Holdings LLC, a Delaware corporation  
Ball Metal Food Container Corp., a Delaware corporation  
Ball Metal Food Container, LLC, a Delaware corporation  
Ball Pan-European Holdings, Inc. , a Delaware corporation  
Latas de Aluminio Ball, Inc. , a Delaware corporation  
USC May Verpackungen Holding Inc. , a Delaware corporation  
Ball Metal Container Corporation, an Indiana corporation  
Ball Corporation, a Nevada corporation

**BALL CORPORATION**  
10 Longs Peak Drive  
Broomfield, Colorado 80021-2510

March 9, 2012

Ball Corporation  
10 Longs Peak Drive,  
P.O. Box 5000  
Broomfield, Colorado 80021-2510

Re: Ball Corporation \$750,000,000 5% Notes due 2022

Ladies and Gentlemen:

I am Associate General Counsel of Ball Corporation, an Indiana corporation (the "Company"), and have acted as counsel to the Company, in connection with the Underwriting Agreement, dated February 24, 2012 (the "Underwriting Agreement"), between Merrill Lynch, Pierce, Fenner & Smith Incorporated, as representative of the several underwriters named therein (the "Underwriters"), and the Company, relating to the sale by the Company to the Underwriters of \$750,000,000 aggregate principal amount of the Company's 5% Notes due 2022 (the "Notes") to be issued under the Indenture, dated as of March 27, 2006 (the "Base Indenture"), among the Company, the subsidiary guarantors named on Schedule I hereto (the "Indiana Guarantor"), the subsidiary guarantors named on Schedule II hereto (the "Other Guarantors" and, together with the Indiana Guarantor, the "Subsidiary Guarantors"), and The Bank of New York Mellon Trust Company,

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N.A. (formerly known as The Bank of New York Trust Company), as trustee (the "Trustee"), as supplemented by the Seventh Supplemental Indenture, dated as of March 9, 2012, among the Company, the Subsidiary Guarantors and the Trustee (the "Seventh Supplemental Indenture" and, together with the Base Indenture, the "Indenture"), establishing the form and terms of the Notes. The Underwriting Agreement, the Indenture and the Note Certificate (as defined below) are referred to herein collectively as the "Transaction Documents."

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act of 1933, as amended (the "Securities Act").

In rendering the opinions set forth herein, I have examined and relied on originals or copies of the following:

- (a) the registration statement on Form S-3 (File No. 333-179639) of the Company relating to the Notes and other securities of the Company filed with the Securities and Exchange Commission (the "Commission") under the Securities Act on February 23, 2012, allowing for delayed offerings pursuant to Rule 415 of the General Rules and Regulations under the Securities Act (the "Rules and Regulations") including information deemed to be a part of the registration statement pursuant to Rule 430B of the Rules and Regulations (such registration statement, as so amended, being hereinafter referred to as the "Registration Statement");
- (b) an executed copy of the Underwriting Agreement;
- (c) an executed copy of the Indenture, including Article 10 thereof which includes the guarantee obligations of the Subsidiary Guarantors (the "Guarantee");
- (d) the global certificate evidencing the Notes registered in the name of Cede & Co. (the "Note Certificate") in the form delivered by the Company to the Trustee for authentication and delivery;
- (e) the certificate of incorporation of the Company and the Indiana Guarantor, each as certified by the Secretary of State of the State of Indiana;
- (f) the bylaws of the Company and the Indiana Guarantor;

2

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(g) resolutions of the Board of Directors of the Company and the Pricing Committee thereof, dated February 23, 2012 and February 24, 2012, respectively;

(h) resolutions of the Indiana Guarantor, adopted on February 23, 2012; and

(i) copies of certificates, dated February 23, 2012, and a bringdown verification dated the date hereof, from the Secretary of State of the State of Indiana with respect to the Company and the Indiana Guarantor's existence and good standing in the State of Indiana.

I have also examined originals or copies, certified or otherwise identified to my satisfaction, of such records of the Company, the Subsidiary Guarantors and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company, the Subsidiary Guarantors and others, and such other documents as I have deemed necessary or appropriate as a basis for the opinions set forth below.

In my examination, I have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making my examination of executed documents, I have assumed that the parties thereto, other than the Company and the Indiana Guarantor, had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties of such documents and, except to the extent expressly set forth in my opinion below, the validity and binding effect thereof on such parties. I have also assumed that each of the Other Guarantors has been duly organized and is validly existing in good standing, and has requisite legal status and legal capacity, under the laws of its jurisdiction of organization and that each of the Other Guarantors has complied and will comply with all aspects of the laws of all relevant jurisdictions (including the laws of the States of Colorado, Delaware and Nevada) in connection with the transactions contemplated by, and the performance of its obligations under, the

Transaction Documents, other than the laws of the State of Indiana insofar as I express my opinion herein. I have also assumed that the terms of the Notes and the Guarantee have been established so as not to, and that the execution and delivery by the Company and the Subsidiary Guarantors of the Transaction Documents and the performance by the Company and the Subsidiary Guarantors of their obligations thereunder, do not and will not violate, conflict with or constitute a

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default under (i) any agreement or instrument to which any of the Company or the Subsidiary Guarantors or any of their properties are subject (except that I do not make the assumption set forth in this clause (i) with respect to those agreements and instruments which are listed in Part II of the Registration Statement or the Company's Annual Report on Form 10-K), (ii) any law, rule, or regulation to which the Company or the Subsidiary Guarantors or any of their properties are subject (except that I do not make the assumption set forth in this clause (ii) with respect to the Opined on Law (as defined below)), (iii) any judicial or regulatory order or decree of any governmental authority or (iv) any consent, approval, license, authorization or validation of, or filing, recording or registration with, any governmental authority. As to any facts material to the opinion expressed herein that I did not independently establish or verify, I have relied upon statements and representations of officers and other representatives of the Company, the Subsidiary Guarantors and others and of public officials.

My opinions set forth herein are limited to those laws of the State of Indiana that, in my experience, are normally applicable to transactions of the type contemplated by the Registration Statement and, to the extent that judicial or regulatory orders or decrees or consents, approvals, licenses, authorizations, validations, filings, recordings or registrations with governmental authorities are relevant, to those required under such laws (all of the foregoing being referred to as "Opined-on-Law"). I do not express any opinion with respect to the law of any jurisdiction other than Opined-on-law or as to the effect of any such Opined-on-Law on the opinions herein stated.

Based upon the foregoing and subject to the limitations, qualifications, exceptions and assumptions set forth herein, I am of the opinion that:

(1) The Company and the Indiana Guarantor are duly formed and are validly existing and in good standing under the laws of the State of Indiana.

(2) The Company and the Indiana Gurantor have the corporate or limited liability company power and authority to execute and deliver the Transaction Documents and to consummate the transactions contemplated thereby under the laws of the State of Indiana.

(3) Assuming the Note Certificates have been duly authenticated by the Trustee and issued and delivered by the Company against payment therefor in accordance with the terms of the Underwriting Agreement and the Indenture, the Notes will constitute valid and binding obligations of the Company, entitled to the benefits of the Indenture and enforceable against the Company in accordance with their terms.

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(4) The Indenture, including the Guarantee set forth in Article 10 thereof, is a valid and binding obligation of the Subsidiary Guarantors enforceable against the Subsidiary Guarantors in accordance with its terms.

The opinions set forth above are subject to the following further qualifications, assumptions and limitations:

(a) the opinions stated herein are limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer, preference and other similar laws affecting creditors' rights generally, and by general principles of equity (regardless of whether enforcement is sought in equity or at law);

(b) except to the extent expressly stated in the opinions contained herein, I do not express any opinion with respect to the effect on the opinions stated herein of (i) the compliance or non-compliance of any party to any of the Transaction Documents with any laws, rules or regulations applicable to such party or (ii) the legal status or legal capacity of any such party to any of the Transaction Documents;

(c) I do not express any opinion with respect to any law, rule or regulation that is applicable to any party to any of the Transaction Documents or the transactions contemplated thereby solely because such law, rule or regulation is part of a regulatory regime applicable to any such party or any of its affiliates as a result of the specific assets or business operations of such party or such affiliates;

(d) I do not express any opinion with respect to the enforceability of Article 10 of the Indenture to the extent that such section provides that the obligations of the Subsidiary Guarantors are absolute and unconditional irrespective of the enforceability or genuineness of the Indenture or the effect thereof on the opinions herein stated; and

(e) I do not express any opinion with respect to the enforceability of the provisions contained in Article 10 of the Indenture to the extent that such provisions limit the obligation of the Subsidiary Guarantors under the Indenture.

The opinions expressed herein are limited to the laws of the State of Indiana and I do not express any opinion herein concerning any other law. The Indenture provides that it is governed by the laws of the State of New York. To the extent that the opinion expressed herein relates to matters governed by the laws of the State of New York, I have relied, with their permission, as to all matters of New York law, on the opinion of Skadden, Arps, Slate, Meagher & Flom LLP dated the date hereof, which is filed herewith as Exhibit 5.3 to the Company's Current Report on

5

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Form 8-K, and my opinion is subject to the exceptions, qualifications and assumptions contained in such opinion.

I hereby consent to the filing of this opinion with the Commission as Exhibit 5.2 to the Company's Current Report on Form 8-K, dated the date hereof. I also hereby consent to the use of my name under the heading "Legal Matters" in the prospectus which forms a part of the Registration Statement. In giving this consent, I do not thereby admit that I am within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder. This opinion is expressed as of the date hereof unless otherwise expressly stated, and I disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Very truly yours,

/s/ Robert W. McClelland

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**Schedule I**  
**Indiana Guarantor**

Ball Metal Container Corporation, an Indiana corporation

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**Schedule II**  
**Other Guarantors**

Ball Advanced Aluminum Technologies Corp., a Delaware corporation  
Ball Aerosol and Specialty Container Holding Corporation, a Delaware corporation  
Ball Aerosol and Specialty Container Inc. , a Delaware corporation  
Ball Aerospace & Technologies Corp. , a Delaware corporation  
Ball Asia Services Limited, a Delaware corporation  
Ball Container LLC, a Delaware corporation  
Ball Delaware Holdings, LLC, a Delaware corporation  
Ball Glass Containers, Inc., a Delaware corporation  
Ball Holdings Corp., a Delaware corporation  
Ball Holdings LLC, a Delaware corporation  
Ball Metal Food Container Corp., a Delaware corporation  
Ball Metal Food Container, LLC, a Delaware corporation  
Ball Pan-European Holdings, Inc. , a Delaware corporation  
Latas de Aluminio Ball, Inc. , a Delaware corporation  
USC May Verpackungen Holding Inc. , a Delaware corporation  
Ball Corporation, a Nevada corporation  
Ball Plastic Container Corp., Colorado corporation  
Ball Technologies Holdings Corp., a Colorado corporation  
Ball Packaging Corp., a Colorado corporation  
Ball Metal Beverage Container Corp., a Colorado corporation

**SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP**  
 150 North Wacker  
 Chicago, Illinois 60606

March 9, 2012

Ball Corporation  
 10 Longs Peak Drive,  
 P.O. Box 5000  
 Broomfield, Colorado 80021-2510

Re: Ball Corporation \$750,000,000 5% Notes due 2022

Ladies and Gentlemen:

We have acted as special counsel to Ball Corporation, an Indiana corporation (the "Company"), in connection with the Underwriting Agreement, dated February 24, 2012 (the "Underwriting Agreement"), between Merrill Lynch, Pierce, Fenner & Smith Incorporated, as representative of the several underwriters named therein (the "Underwriters"), and the Company, relating to the sale by the Company to the Underwriters of \$750,000,000 aggregate principal amount of the Company's 5% Notes due 2022 (the "Notes") to be issued under the Indenture, dated as of March 27, 2006 (the "Base Indenture"), among the Company, the subsidiary guarantors named on Schedule I hereto (the "Delaware Guarantors"), the subsidiary guarantors named on Schedule II hereto (the "Other Guarantors" and, together with the Delaware Guarantors, the "Subsidiary Guarantors"), and The Bank of New York Mellon Trust Company, N.A. (formerly known as The Bank of New York Trust Company), as trustee (the "Trustee"), as supplemented by the Seventh Supplemental Indenture, dated as of March 9, 2012, among the Company, the Subsidiary Guarantors and the Trustee (the "Seventh Supplemental Indenture" and, together with the Base Indenture, the "Indenture"), establishing the form and terms of the Notes. The Underwriting Agreement, the Indenture and the Note Certificate (as defined below) are referred to herein collectively as the "Transaction Documents."

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act of 1933, as amended (the "Securities Act").

In rendering the opinions set forth herein, we have examined and relied on originals or copies of the following:

- (a) the registration statement on Form S-3 (File No. 333-179639) of the Company relating to the Notes and other securities of the Company filed with the Securities and Exchange Commission (the "Commission") under the Securities Act on February 23, 2012, allowing for delayed offerings pursuant to Rule 415 of the General Rules and Regulations under the Securities Act (the "Rules and Regulations") including information deemed to be a part of the registration statement pursuant to Rule 430B of the Rules and Regulations (such registration statement, as so amended, being hereinafter referred to as the "Registration Statement");
- (b) an executed copy of the Underwriting Agreement;
- (c) an executed copy of the Indenture, including Article 10 thereof which includes the guarantee obligations of the Subsidiary Guarantors (the "Guarantee");
- (d) the global certificate evidencing the Notes registered in the name of Cede & Co. (the "Note Certificate") in the form delivered by the Company to the Trustee for authentication and delivery;
- (e) the certificates of incorporation of each of the Delaware Guarantors that are corporations, as certified by the Secretary of State of the State of Delaware; (2) the bylaws of each of the Delaware Guarantors that are corporations; (3) the certificates of formation of each of the Delaware Guarantors that are limited liability companies, as certified by the Secretary of State of the State of Delaware; and (4) the limited liability company agreement or operating agreement of each of the Delaware Guarantors that are limited liability companies;
- (f) resolutions of (1) the Board of Directors of each of the Delaware Guarantors that are corporations and (2) the Board of Managers of each of the Delaware Guarantors that are limited liability companies, each adopted on February 23, 2012; and
- (g) copies of certificates, dated February 23, 2012, and bring-down verifications thereof, dated the date hereof, from the Secretary of State of the State of

Delaware with respect to the Delaware Guarantors' existence and good standing in the State of Delaware (collectively, the "Delaware Certificates").

We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Company, the Delaware Guarantors and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company, the Delaware Guarantors and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinions set forth below.

In our examination, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making our examination of executed documents, we have assumed that the parties thereto, other than the Delaware Guarantors, had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties of such documents and, except to the extent expressly set forth in our opinion below, the validity and binding effect thereof on such parties. We have also assumed that each of the Company and the Other Guarantors has been duly organized and is validly existing in good standing, and has requisite legal status and legal capacity, under the laws of its jurisdiction of organization and that each of the Company and the Other Guarantors has complied and will comply with all aspects of the laws of all relevant jurisdictions (including the laws of the States of Colorado, Indiana and Nevada) in connection with the transactions contemplated by, and the performance of its obligations under, the Transaction Documents, other than the General Corporation Law of the State of Delaware (the "DGCL"), the Delaware Limited Liability Company Act

(the “DLLCA”) and the laws of the State of New York insofar as we express our opinion herein. We have also assumed that the terms of the Notes and the Guarantee have been established so as not to, and that the execution and delivery by the Company and the Subsidiary Guarantors of the Transaction Documents and the performance by the Company and the Subsidiary Guarantors of their obligations thereunder, do not and will not violate, conflict with or constitute a default under (i) any agreement or instrument to which any of the Company or the Subsidiary Guarantors or any of their properties are subject (except that we do not make the assumption set forth in this clause (i) with respect to those agreements and instruments which are listed in Part II of the Registration Statement or the Company’s Annual Report on Form 10-K), (ii) any law, rule, or regulation to which the Company or the Subsidiary Guarantors or any

of their properties are subject (except that we do not make the assumption set forth in this clause (ii) with respect to the Opined on Law (as defined below)), (iii) any judicial or regulatory order or decree of any governmental authority or (iv) any consent, approval, license, authorization or validation of, or filing, recording or registration with, any governmental authority. As to any facts material to the opinion expressed herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Company, the Delaware Guarantors and others and of public officials.

Our opinions set forth herein are limited to the DGCL and the DLLCA, and those laws of the State of New York that, in our experience, are normally applicable to transactions of the type contemplated by the Registration Statement and, to the extent that judicial or regulatory orders or decrees or consents, approvals, licenses, authorizations, validations, filings, recordings or registrations with governmental authorities are relevant, to those required under such laws (all of the foregoing being referred to as “Opined-on Law”). We do not express any opinion with respect to the law of any jurisdiction other than Opined-on Law or as to the effect of any such non-Opined-on Law on the opinions herein stated.

Based upon the foregoing and subject to the limitations, qualifications, exceptions and assumptions set forth herein, we are of the opinion that:

(1) Based solely on our review of the Delaware Certificates, each of the Delaware Guarantors is duly formed and is validly existing and in good standing under the DGCL or the DLLCA, as applicable.

(2) The Delaware Guarantors have the corporate or limited liability company power and authority to execute and deliver the Transaction Documents and to consummate the transactions contemplated thereby under the DGCL or the DLLCA, as applicable.

(3) Assuming the Note Certificates have been duly authenticated by the Trustee and issued and delivered by the Company against payment therefor in accordance with the terms of the Underwriting Agreement and the Indenture, the Notes will constitute valid and binding obligations of the Company, entitled to the benefits of the Indenture and enforceable against the Company in accordance with their terms.

(4) The Indenture, including the Guarantee set forth in Article 10 thereof, is a valid and binding obligation of the Subsidiary Guarantors enforceable against the Subsidiary Guarantors in accordance with its terms.

The opinions set forth above are subject to the following further qualifications, assumptions and limitations:

(a) the opinions stated herein are limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer, preference and other similar laws affecting creditors’ rights generally, and by general principles of equity (regardless of whether enforcement is sought in equity or at law);

(b) except to the extent expressly stated in the opinions contained herein, we do not express any opinion with respect to the effect on the opinions stated herein of (i) the compliance or non-compliance of any party to any of the Transaction Documents with any laws, rules or regulations applicable to such party or (ii) the legal status or legal capacity of any such party to any of the Transaction Documents;

(c) we do not express any opinion with respect to any law, rule or regulation that is applicable to any party to any of the Transaction Documents or the transactions contemplated thereby solely because such law, rule or regulation is part of a regulatory regime applicable to any such party or any of its affiliates as a result of the specific assets or business operations of such party or such affiliates;

(d) to the extent any opinion relates to the enforceability of the choice of New York law and choice of New York forum provisions contained in any Transaction Agreement, our opinions stated herein are rendered solely in reliance upon New York General Obligations Law sections 5-1401 and 5-1402 and Rule 327(b) of New York Civil Practice Law and Rules and are subject to the qualification that such enforceability may be limited by, in each case, the terms of such sections 5-1401 and 5-1402, as well as by principles of public policy, comity or constitutionality;

(e) we do not express any opinion with respect to the enforceability of Article 10 of the Indenture to the extent that such section provides that the obligations of the Subsidiary Guarantors are absolute and unconditional irrespective of the enforceability or genuineness of the Indenture or the effect thereof on the opinions herein stated; and

(f) we do not express any opinion with respect to the enforceability of the provisions contained in Article 10 of the Indenture to the extent that such provisions limit the obligation of the Subsidiary Guarantors under the Indenture.

Charles Baker, Vice President, General Counsel and Corporate Secretary of the Company, and Robert McClelland, Associate General Counsel of the Company, may rely on this opinion, subject to the limitations and assumptions set

forth in this opinion, as if it were addressed to them, in rendering their opinions dated the date hereof, which are to be filed herewith as Exhibit 5.1 and Exhibit 5.2, respectively, to the Company’s Current Report on Form 8-K.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.3 to the Company’s Current Report on Form 8-K, dated the date hereof. We also hereby consent to the use of our name under the heading “Legal Matters” in the prospectus which forms a part of the Registration Statement. In giving this consent, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission

promulgated thereunder. This opinion is expressed as of the date hereof unless otherwise expressly stated, and we disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Very truly yours,  
  
/s/ Skadden, Arps, Slate, Meagher & Flom LLP

**Schedule I**  
**Delaware Guarantors**

Ball Advanced Aluminum Technologies Corp.  
Ball Aerosol and Specialty Container Holding Corporation  
Ball Aerosol and Specialty Container Inc.  
Ball Aerospace & Technologies Corp.  
Ball Asia Services Limited  
Ball Container LLC  
Ball Delaware Holdings, LLC  
Ball Glass Containers, Inc.  
Ball Holdings Corp.  
Ball Holdings LLC  
Ball Metal Food Container Corp.  
Ball Metal Food Container, LLC  
Ball Pan-European Holdings, Inc.  
Latas de Aluminio Ball, Inc.  
USC May Verpackungen Holding Inc.

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**Schedule II**  
**Other Guarantors**

Ball Plastic Container Corp., Colorado corporation  
Ball Technologies Holdings Corp., a Colorado corporation  
Ball Packaging Corp., a Colorado corporation  
Ball Metal Beverage Container Corp., a Colorado corporation  
Ball Metal Container Corporation, an Indiana corporation  
Ball Corporation, a Nevada corporation