Bank of New York Mellon CORP
Form 11-K
June 29, 2010
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SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 11-K

x ANNUAL REPORT PURSUANT TO SECTION 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2009

OR

¨ TRANSITION REPORT PURSUANT TO SECTION 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _____ to _____

COMMISSION FILE NO. 000-52710

THE BANK OF NEW YORK MELLON CORPORATION 401(k) SAVINGS PLAN

One BNY Mellon Center

500 Grant Street

Pittsburgh, PA 15258-0001

(Full title of the Plan and the address of the Plan)

THE BANK OF NEW YORK MELLON CORPORATION

One Wall Street

New York, New York 10286

(Name of issuer of the securities

held pursuant to the Plan and the

address of its principal executive office)

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THE BANK OF NEW YORK MELLON CORPORATION 401(k) SAVINGS PLAN

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THE BANK OF NEW YORK MELLON CORPORATION

401(k) SAVINGS PLAN

Financial Statements and Supplemental Schedule

December 31, 2009 and 2008

(With Independent Auditors Report)

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THE BANK OF NEW YORK MELLON CORPORATION

401(k) SAVINGS PLAN

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Note: All other schedules required by the Department of Labor s Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974 (ERISA) have been omitted because there is no information to report.

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Report of Independent Registered Public Accounting Firm

Benefits Administration Committee

The Bank of New York Mellon Corporation

We have audited the accompanying statements of net assets available for plan benefits of The Bank of New York Mellon Corporation 401(k) Savings Plan (the Plan) as of December 31, 2009 and 2008, and the related statements of changes in net assets available for plan benefits for the years then ended. These financial statements are the responsibility of the Plan s management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the net assets available for plan benefits of the Plan as of December 31, 2009 and 2008, and the changes in net assets available for plan benefits for the years then ended in conformity with U.S. GAAP.

Our audits were performed for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental Schedule H, line 4i Schedule of Assets (Held at End of Year) as of December 31, 2009, is presented for the purpose of additional analysis and is not a required part of the basic financial statements but is supplementary information required by the Department of Labor s Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. This supplemental schedule is the responsibility of the Plan s management. The supplemental schedule has been subjected to the auditing procedures applied in the audits of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

/s/ KPMG LLP

Pittsburgh, Pennsylvania

June 29, 2010

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THE BANK OF NEW YORK MELLON CORPORATION

401(k) SAVINGS PLAN

Statements of Net Assets Available for Plan Benefits

	December 31, 2009	2008
Assets		
Investments, at fair value:		
Investment in master trust	$ 2,612,234,538	$
Collective trust funds		770,937,285
Common stock		304,026,908
Registered investment companies		88,853,279
Total investments at fair value	2,612,234,538	1,163,817,472
Loans to participants	61,273,498	23,019,538
Cash and cash equivalents	19,918	590,688
Pending investment sales and other receivables	559,426	3,536,341
Total assets	2,674,087,380	1,190,964,039
Liabilities		
Pending investment purchases and other payables	941,422	1,217,964
Total liabilities	941,422	1,217,964
Net assets available for plan benefits, before adjustment	2,673,145,958	1,189,746,075
Adjustment from fair value to contract value for fully benefit-responsive investment contracts	(1,857,906)	4,175,637
Net assets available for plan benefits	$ 2,671,288,052	$ 1,193,921,712

See accompanying Notes to Financial Statements.

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THE BANK OF NEW YORK MELLON CORPORATION

401(k) SAVINGS PLAN

Statements of Changes in Net Assets Available for Plan Benefits

	Years ended December 31, 2009	2008
ADDITIONS:		
Additions to net assets attributed to:		
Contributions:		
Employer matching contributions	$ 72,891,995	$ 30,933,410
Participant contributions	111,761,532	67,632,341
Rollover contributions	4,376,146	3,909,091
Total contributions	189,029,673	102,474,842
Investment income (loss):		
Net investment income from Master Trust	313,997,618	
Net depreciation in fair value of investments		(545,255,237)
Collective trust funds income		6,830,605
Registered investment companies dividend income		3,749,124
Dividends from common stock		10,055,221
Total investment income (loss)	313,997,618	(524,620,287)
Interest income on loans to participants	2,896,512	1,665,779
Total additions (reductions)	505,923,803	(420,479,666)
DEDUCTIONS:		
Deductions from net assets attributed to:		
Administrative expenses	209,528	
Participants withdrawals	150,927,022	79,898,320
Total deductions	151,136,550	79,898,320
Net increase (decrease) prior to transfer from other plan	354,787,253	(500,377,986)
Transfer from other plan	1,122,579,087	
Net increase (decrease) in net assets	1,477,366,340	(500,377,986)
Net assets available for plan benefits:		
Beginning of year	1,193,921,712	1,694,299,698
End of year	$ 2,671,288,052	$ 1,193,921,712

See accompanying Notes to Financial Statements.

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NOTES TO FINANCIAL STATEMENTS

(1) Description of the Plan

The following description of The Bank of New York Mellon Corporation 401(k) Savings Plan (the Plan) provides only general information. Participants should refer to the Plan document for a more complete description of the Plan s provisions.

On April 1, 2009, the Employee Savings & Investment Plan of The Bank of New York Company, Inc. merged with and into the Mellon 401(k) Retirement Savings Plan and the resulting Plan was renamed The Bank of New York Mellon Corporation 401(k) Savings Plan.

(a) General

The Plan is a defined contribution plan established to cover the salaried U.S. employees of either The Bank of New York Mellon Corporation (the Company) or a subsidiary of the Company which has expressly elected to have its U.S. employees covered by the Plan. U.S. hourly employees of the Company are eligible to participate in the Plan after completing 1,000 hours of service within the 12 month period commencing on the employee s hire date. U.S. hourly employees who do not complete 1,000 hours during the initial period will be eligible to participate in the Plan after completing 1,000 hours within any calendar year after the employee s hire date. The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974, as amended (ERISA).

Prior to April 1, 2009, the Plan covered only certain salaried U.S. employees of the Company and certain subsidiaries, with exceptions including those described below. Most employees that were hired by the Company on or after July 1, 2007, but prior to July 1, 2008, were eligible to participate in the Plan if the employees were U.S. employees of the Company hired into a legacy Mellon Financial Corporation business. If an employee was hired into a legacy The Bank of New York business on or after July 1, 2007 but prior to July 1, 2008, the employee was not eligible to participate in the Plan, but may have been able to participate in one of the legacy 401(k) plans sponsored by The Bank of New York Company, Inc.

U.S. employees hired by the Company or participating subsidiaries on or after July 1, 2008 were eligible to participate in the Plan subject to conditions noted above.

Employees who participate in The Retirement Savings Plan of BNY Securities Group are not eligible to participate in this plan.

Eligible employees may begin participating in the Plan as of the first day of the next payroll period beginning after completion of the enrollment process.

Prior to July 21, 2008, the Plan was administered by the Corporate Benefits Committee. Since July 21, 2008, the Plan has been administered by the Benefits Administration Committee. Prior to July 21, 2008, the Corporate Benefits Committee was, and since July 21, 2008, the Benefits Administration Committee has been a named fiduciary of the Plan. Subject to the following, at all relevant times, the Benefits Investment Committee, another named fiduciary of the Plan, has been responsible for the investment of Plan assets. Since July 1, 2008, The Bank of New York Mellon, a wholly owned subsidiary of the Company has been the Plan trustee (the Trustee). Prior to July 1, 2008, the plan trustee was Mellon Bank, N.A. The Bank of New York Mellon is the successor by operation of law to Mellon Bank, N.A.

In September 2008, the Benefits Investment Committee appointed Fiduciary Counselors, Inc. to serve as the independent fiduciary to (i) make certain fiduciary decisions related to the continued prudence of offering the common stock of the Company as an investment option under a plan sponsored either by the Company or an affiliate, such as the Plan, that permits participants to direct the investment of their Plan accounts, and (ii) select and monitor any actively managed investments (including mutual funds) of

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NOTES TO FINANCIAL STATEMENTS (continued)

sponsored or advised by the Company or its affiliates to be offered to participants as investment options under the Plan.

Participants in the Plan have the option of investing their contributions through salary deferrals to one or more of the 17 professionally managed funds covered under the Plan, which include lifecycle funds, passively managed index funds and actively managed funds, a Self-Directed Account and common stock of the Company. The maximum a participant can transfer into the Self-Directed Account is 50% of their account balance.

The Company pays the investment management fees for all passively managed index funds. For those actively managed funds which are partially managed by an affiliate, the Company directly pays the portion of the investment management fees attributable to the related affiliate. Fees charged by the lifecycle funds, and fees charged by the mutual funds and exchange-traded funds in the Self-Directed Account, are paid by the participant. The Company pays all administrative fees related to the Plan, except administrative costs arising in connection with a participant loan.

(b) Contributions

Salary reduction contributions may be made at a rate of 1% to 75% of the employee s base compensation, but may not exceed the annual dollar limit prescribed by the tax laws ($16,500 and $15,500 in 2009 and 2008, respectively). Effective January 1, 2009, after-tax contributions in any whole percentage not to exceed $14,000 may also be made to the Plan. Employees may change the rate of contribution or discontinue contributions at any time.

Participants who were 50 or older by December 31, 2009 and 2008, as applicable, and who reached the contribution limit of $16,500 and $15,500 for such year(s), respectively, were eligible to contribute an additional $5,500 and $5,000 in catch-up contributions to the Plan for such year(s), respectively.

Participants may roll over into the Plan amounts representing distributions from other qualified retirement plans or conduit IRAs.

In 2008, the Company made contributions up to 75% of the first 6% of each participant s salary reduction contribution. For every dollar a participant contributed to the Plan, up to the first 6% of eligible base pay each pay period, the Company contributed an in-kind equivalent of 75 cents in common stock of the Company to the participant s account. Effective January 1, 2009, the Company increased the match to 100% of the first 6% of each participant s salary reduction and/or after-tax contributions. Prior to April 1, 2009, the Company s matching contributions were made in the Company s common stock based upon the three-day average close on the New York Stock Exchange. Pay period ending day plus the preceding two days were used to calculate the three-day average. Beginning April 1, 2009, the Company s matching contributions were made in cash. Participants may elect to transfer any common stock of the Company received as matching contributions to other Plan investments.

Effective for 2009, the Plan is intended to be a safe-harbor 401(k) plan under which employee pre-tax and employer matching contributions are not subject to discrimination testing. In the event the Plan ceases to satisfy the requirements for a safe-harbor plan, employee pre-tax and employer matching contributions would have to satisfy nondiscrimination tests under the Internal Revenue Code (IRC) and these contributions could be limited for highly compensated employees. In addition, IRC Section 415 limits the amount of contributions that may be allocated to the account of each participant.

The Company is permitted to make discretionary contributions as determined and authorized by its Board of Directors. Discretionary contributions would be allocated to each eligible participant s account and may be made either in cash or in common stock of the Company. There were no discretionary contributions during the years ended December 31, 2009 and 2008.

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NOTES TO FINANCIAL STATEMENTS (continued)

(c) Participant Accounts

Each participant s account is credited with the participant s salary reduction contributions, after-tax contributions, employer matching contributions, employer discretionary contributions, if any, and Plan earnings. The benefit to which a participant is entitled is the benefit that can be provided from the participant s vested account.

(d) Vesting

Participants are immediately vested in their salary reduction contributions, after-tax contributions, any rollover contributions, and earnings on these amounts. Matching contributions to the Plan relating to periods of employment on or after January 1, 2001 but prior to January 1, 2009, plus any earnings these amounts generate, are 100% vested after three years of service. Matching contributions to the Plan relating to periods of employment on or after January 1, 2009, plus any earnings these amounts generate, are 100% vested at all times.

(e) Forfeitures

If the participant is not fully vested at the participant s employment termination date, the nonvested portion of the account balance is forfeited on the earlier of distribution of the vested portion or five consecutive one-year breaks in service. As of December 31, 2009 and 2008, the forfeited nonvested accounts that were unallocated to participants totaled $325,926 and $25,806, respectively. These accounts will be used to reduce future employer contributions. Also, in 2009 and 2008, employer contributions were reduced by $472,146 and $673,384, respectively, from nonvested accounts forfeited.

(f) Distributions and In-Service Withdrawals

The vested portion of a participant s account is payable upon severance of employment, including for reasons of retirement, death, or disability (within the meaning of the Company s Long-Term Disability Plan). Prior to January 1, 2009, special in-service withdrawal rules applied with respect to the accounts of participants who were participants in the following plans, which were each merged with and into the Plan: (i) the Dreyfus Profit-Sharing Plan; (ii) The Boston Company, Inc. Employee Savings Plan ; (iii) the Employee Savings and Profit Sharing Plan of Mellon United National Bank; (iv) the Buck Savings and Profit Sharing Plan; (v) the Founders Asset Management LLC Profit Sharing Plan; (vi) the Standish, Ayer & Wood, Inc. Plan; (vii) the iQuantic, Inc. 401(k) Savings Plan; (viii) the MIS Retirement Savings Plan; (ix) the ITS Associates, Inc. Savings and Profit Sharing Plan; (x) the Eagle Investment Systems Corp. Profit Sharing Plan; and (xi) the SourceNet Solutions, Inc. Plan. On and after January 1, 2009, and subject to certain restrictions, these special in-service withdrawal rules are made generally applicable such that all participants in the Plan are eligible to receive in-service withdrawals following the attainment of age 59 1/2 and in the case of specified hardships and amounts attributable to after-tax and rollover contributions. The Plan also makes mandatory age 70 1/2 distributions pursuant to the minimum distribution regulations issued by the Internal Revenue Service.

(g) Loans to Participants

Generally, new loans, when added to the amount of any existing loans, cannot exceed the lesser of (a) $50,000 minus the participant s highest outstanding loan balance in the last 12 months, (b) one-half of the participant s vested account, or (c) the participant s account balance, excluding any investments in a Self-Directed Account. Such loans are repaid in periodic installments through payroll deduction. Loan repayments of both principal and interest are invested by the Trustee among the available investment funds in the same proportions as the participant s salary reduction contributions are invested. The fixed loan interest rate is one percentage point above the prime rate published in The Wall Street Journal. Loan proceeds are reduced by a loan processing fee of $50.

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NOTES TO FINANCIAL STATEMENTS (continued)

(h) Payment of Benefits

Prior to April 1, 2009, distributions from the Plan may be made solely in the form of a lump sum. On or after April 1, 2009, if a participant leaves the Company after reaching age 65 or on account of disability or death, he may also elect to receive his distribution in a series of quarterly installments over a period not exceeding the lesser of (1) his life expectancy or his and his designated beneficiary s joint life expectancy, or (2) ten years. Participants will automatically be paid in a lump sum if their account balance is $1,000 or less. If a portion of a participant s balance is invested in Company common stock or a Self-Directed Account, the participant may elect to receive the distribution in-kind or in cash.

(i) Voting Rights

Each participant is entitled to exercise voting rights attributable to the shares of Company common stock allocated to his or her account and will be notified prior to the time that such rights are to be exercised. The Trustee will vote shares for which no directions have been timely received, and shares not credited to any participant s account, in proportion to the vote cast by participants who have timely responded.

(2) Summary of Significant Accounting Policies

(a) Basis of Financial Statements

The accompanying financial statements have been prepared on the accrual basis of accounting. Amounts payable to participants terminating participation in the Plan are included as a component of net assets available for plan benefits.

(b) Use of Estimates

The preparation of the financial statements in conformity with U.S. generally accepted accounting principles requires the plan administrator to make estimates and assumptions (for example, the market valuation of certain fund investments) that affect the amounts reported in the financial statements and accompanying notes and supplemental schedule. Actual results could differ from those estimates.

(c) Investments

Investments held by the Plan are stated at fair value. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (an exit price). See Note 10 for further discussion of fair value measurements.

The Stable Value Fund invests in fully benefit-responsive investment contracts. These investment contracts are recorded at fair value; however, since these contracts are fully-benefit responsive, an adjustment is reflected in the statements of net assets available for plan benefits to present these investments at contract value as described in paragraph (e) below. Contract value is the relevant measurement attributable to fully benefit-responsive investment contracts because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the Plan. The contract value represents contributions plus earnings, less participant withdrawals and administrative expenses.

Purchases and sales of securities are reflected on a trade-date accounting basis. Dividend income from investments in common stock is recorded on the ex-dividend date. Interest income from other investments is recorded as earned on an accrual basis. Net appreciation (depreciation) includes the Plan s gains and losses on investments bought and sold as well as held during the year.

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NOTES TO FINANCIAL STATEMENTS (continued)

(d) Loans

Loans to participants are stated at amortized cost, which approximates fair value.

(e) Fully Benefit Responsive Investment Contracts

As provided in Accounting Standards Codification (ASC) 946 *Financial Services Investment Companies*, an investment contract is generally permitted to be valued at contract value, rather than fair value, to the extent it is fully benefit-responsive. As also provided for by the ASC, the fully benefit-responsive investment contracts are included at fair value in the investments of the Plan and are adjusted to contract value in the statements of net assets available for plan benefits.

The Stable Value Fund generally consists of three types of investment contracts that are described in detail below:

Guaranteed Investment Contracts

Traditional Guaranteed Investment Contracts (GICs) are unsecured, general account obligations of insurance companies. The obligation is backed by the general account assets of the insurance company that writes the investment contract. The crediting rate on this product is typically fixed for the life of the investment.

Separate account GICs are investments in a segregated account of assets maintained by an insurance company for the benefit of the investors. The total return of the segregated account assets supports the separate account GIC s return. The credited rate on this product will reset periodically and it will have an interest rate of not less than 0%.

Fixed Maturity Synthetic Guaranteed Investment Contracts

General fixed maturity synthetic GICs consist of an asset or collection of assets that are owned by the fund and a benefit responsive, book value wrap contract purchased for the portfolio. The wrap contract provides book value accounting for the asset and assures that book value; benefit responsive payments will be made for participant directed withdrawals. The crediting rate of the contract is set at the start of the contract and typically resets every quarter. Generally, fixed maturity synthetics are held to maturity. The initial crediting rate is established based on the market interest rates at the time the initial asset is purchased and it will have an interest crediting rate not less than 0%.

Variable synthetic GICs consist of an asset or collection of assets that are managed by the bank or insurance company and are held in a bankruptcy remote vehicle for the benefit of the fund. The contract is benefit responsive and provides next day liquidity at book value. The crediting rate on this product resets every quarter based on the then current market index rates and an investment spread. The investment spread is established at time of issuance and is guaranteed by the issuer for the life of the investment.

Constant Duration Synthetic Guaranteed Investment Contracts

Constant duration synthetic GICs consist of a portfolio of securities owned by the fund and a benefit responsive, book value wrap contract purchased for the portfolio. The wrap contract amortizes gains and losses of the underlying securities over the portfolio duration, and assures that book value; benefit responsive payments will be made for participant directed withdrawals. The crediting rate on a constant duration synthetic GIC resets every quarter based on the book value of the contract, the market yield of the underlying assets, the market value of the underlying assets and the average duration of the underlying assets. The crediting rate aims at converging the book value of the contract and the market value of the underlying portfolio over the duration of the contract and therefore will be affected by movements in interest rates and/or changes in the market value of the underlying portfolio. The initial crediting rate is

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NOTES TO FINANCIAL STATEMENTS (continued)

established based on the market interest rates at the time the underlying portfolio is first put together and it will have an interest crediting rate of not less than 0%.

The interest crediting rate is determined quarterly and is primarily based on the current yield to maturity of the covered investment, plus or minus amortization of the difference between the market value and the contract value of the covered investments over the duration of the covered investments at the time of computation. There is no relationship between future crediting rates and adjustments to contact value reported in the Statements of Net Assets Available for Plan Benefits.

The average market yield of the Fund for the years ended December 31, 2009 and 2008 was 3.39% and 4.01%, respectively. The average yield earned by the Stable Value Fund that reflects the actual interest credited to participants for the years ended December 31, 2009 and 2008 was 3.20% and 3.79%, respectively. Certain events limit the ability of the Plan to transact at contract value with the issuer. Such events include the following: (i) amendments to the plan documents (including complete or partial plan termination or merger with another plan); (ii) changes to plan s prohibition on competing investment options or deletion of equity wash provisions; (iii) bankruptcy of the plan sponsor or other plan sponsor events (e.g. divestitures or spin-offs of a subsidiary) which cause a significant withdrawal from the plan or (iv) the failure of the trust to qualify for exemption from federal income taxes or any required prohibited transaction exemption under ERISA. The Plan Administrator does not believe that any such event that would limit the Plan s ability to transact at contract value with participants is probable of occurring.

(f) Recent Accounting Pronouncements:

In September 2009, the FASB issued Accounting Standards Update (ASU) 2009-12 *Fair Value Measurements and Disclosures: Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)*. This guidance is included in ASC 820. ASU 2009-12 offers guidance on how to use a net asset value per share to estimate the fair value of investments in investment vehicles such as hedge funds, private equity funds, real estate funds, venture capital funds, offshore fund vehicles, and funds of funds. Investors may use net asset value to estimate the fair value of investments in investment companies that do not have a readily determinable fair value if the investees have the attributes of investment companies and the net asset values or their equivalents are calculated consistent with the AICPA Audit and Accounting Guide for Investment Companies, which generally requires investments to be measured at fair value. This approach is deemed to be a practical expedient for investors of investment companies as the Generally Accepted Accounting Principles (GAAP) fair value measurement framework defines an asset s fair value as its current exit price. ASU 2009-12 has limitations and disclosure requirements about the nature and terms of the investments within the scope of the new guidance. ASU 2009-12 was effective December 31, 2009. See Note 10 of Notes to Financial Statements.

During 2009, the Plan adopted ASC 855, *Subsequent Events* which was issued in May 2009 and is effective for fiscal years and interim periods ending after June 15, 2009. ASC 855 requires evaluation of subsequent events through the date of financial statement issuance. The adoption of this guidance is reflected in these financial statements.

(3) Investment and Loan Programs

The Bank of New York Mellon (and prior to July 1, 2008, its predecessor by operation of law, Mellon Bank, N.A.), a subsidiary of the Company, acts as Trustee under a declaration of trust providing for the establishment, management, investment and reinvestment of the Plan s assets. The Benefits Investment Committee established the Plan s investment options by offering four investment tiers, which include a broad range of funds as core options. Core options are those funds in which employees can invest directly through payroll contributions. The investment tiers as of December 31, 2009 are described below.

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NOTES TO FINANCIAL STATEMENTS (continued)

Lifecycle Funds

The lifecycle funds consist of a series of LifePath Index Funds which bear different risk profiles based on a targeted retirement date, ranging from 2010 to 2050. Each LifePath Index Fund is a fund-of-funds comprised predominantly of a combination of index funds covering the domestic fixed income, domestic equity, international equity and global real estate securities asset classes. The fund manager will rebalance the investment mix periodically to gradually shift toward a more conservative profile as the fund s maturity date approaches. There is also a separate fund for individuals near to or already in retirement, the LifePath Retirement Fund, which is intended to preserve savings by maintaining a lower risk profile.

Passively Managed Index Funds

The passively managed index funds consists of four index funds covering the major asset classes (domestic investment grade bonds, domestic large cap equity, mid and small cap equity, and international equity). These funds are designed to track a specific investment index, such as the S&P 500. The fund managers attempt to replicate the holdings and performance of the index, but do not seek to exceed the index s returns, less fees and expenses.

Actively Managed Funds and Common Stock

The actively managed funds consist of thirteen funds covering the major asset classes. The investment managers of actively managed funds seek to exceed the returns of a given market index or benchmark. Because this approach often requires a great deal of research and trading activity, fees and expenses are generally higher than the fees of passively managed index funds. The goal is to outperform the market enough to offset those higher expenses. Most of the funds have a multi-manager structure to reduce manager performance risk and to benefit from less than perfect correlation between different types of investment approaches within a sub-asset class.

Participants have the opportunity to own shares of the Company s common stock. A common stock investment in a single company is subject to the fluctuations of the stock market, as well as the company s performance and its long-term financial prospects.

Self-Directed Account

The investment options include a Self-Directed Account (SDA) in which participants may direct the purchase of shares of mutual funds and exchange-traded funds (ETFs). The minimum initial investment in the SDA is $5,000, and subsequent transfers from any other fund into the SDA must be at least $1,000. The maximum amount that a participant may elect to invest in the SDA is 50% of their account balance. Accordingly, a participant must have at least a $10,000 account balance to be eligible to invest in the SDA.

There is no assurance that the stated objective of any of the funds can be achieved.

Loan Fund

The Loan Fund represents a separate fund that is administered by the Trustee in connection with loans to participants of the Plan. The amount of each loan is transferred from one or more of the investment funds, as described in the Plan document, based on the proportion of the participant s interest in such funds to the participant s aggregate interest in all such investment funds.

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NOTES TO FINANCIAL STATEMENTS (continued)

(4) Party-In-Interest Transactions

The Bank of New York Mellon (and prior to July 1, 2008, Mellon Bank, N.A.), a subsidiary of the Company, acts as Trustee under a declaration of trust providing for the establishment, management, investment, and reinvestment of the Plan s assets.

Certain investments of the Plan are managed by subsidiaries of the Company. The Plan also invests in common stock of the Company. In addition, the Plan issues loans to participants, which are secured by the balances in the participant s accounts. Therefore, these related transactions qualify as party-in-interest transactions. All other transactions which may be considered parties-in-interest transactions relate to normal plan management and administrative services, and the related payment of fees.

The Master Trust held 32,501,713 shares of the Company s common stock as of December 31, 2009 and the Plan held 10,731,624 shares at December 31, 2008.

(5) Plan Termination

Although it has not expressed any intent to do so, the Company has the right under the Plan to discontinue its contributions at any time and to terminate the Plan subject to the provisions of ERISA. In the event of Plan termination, participants will become 100% vested in their accounts. Any unallocated assets of the Plan shall be allocated to participant accounts and distributed in such a manner as the Company may determine.

(6) Federal Income Taxes

The Plan received a favorable determination letter from the Internal Revenue Service (IRS) dated August 4, 2003, which stated that the Plan and related trust are designed in accordance with the applicable Sections of the Internal Revenue Code (IRC). The Plan has been amended since receiving the determination letter and on February 1, 2010, in accordance with IRS procedures, the Company filed for an updated favorable determination letter. In any case, the plan administrator believes the Plan is designed and is currently being operated in compliance with the applicable provisions of the IRC. Accordingly, the accompanying financial statements do not include a provision for federal income taxes.

(7) Master Trust Financial Information

Effective January 1, 2009, the Plan s assets were transferred from the Mellon 401(k) Trust into The Bank of New York Mellon Corporation Retirement Plans Master Trust (the Master Trust). Effective April 1, 2009, in connection with its merger with and into the Mellon 401(k) Retirement Savings Plan, the assets of the Employee Savings & Investment Plan of The Bank of New York Company, Inc. were also transferred into the Master Trust. The assets of the Master Trust also include the assets of The Bank of New York Mellon Corporation Pension Plan and The Employee Stock Ownership Plan of The Bank of New York Company, Inc. The fair value of the net assets of the Master Trust as of December 31, 2009 is as follows:

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NOTES TO FINANCIAL STATEMENTS (continued)

Master Trust

Statement of Net Assets Available for Plan Benefits

	December 31, 2009
Assets	
Investments, at fair value	$ 6,434,140,962
Loans to participants	61,273,498
Cash and cash equivalents	20,455
Pending investment sales and other receivables	75,871,175
Assets held as cash collateral under securities lending	110,770,912
Total assets	$ 6,682,077,002
Liabilities	
Pending investment purchases and other liabilities	10,317,127
Payable upon return of assets loaned	110,770,912
Total liabilities	121,088,039
Net assets available for plan benefits, before adjustment	6,560,988,963
Adjustments from fair value to contract value for fully benefit-responsive investment contracts	(1,857,906)
Net assets available for plan benefits	$ 6,559,131,057

Master Trust

Statement of Changes in Net Assets Available for Plan Benefits

	Year ended December 31, 2009
ADDITIONS:	
Additions to net assets attributed to:	
Transfers in	$ 6,026,112,672
Investment Income	845,338,604
Total additions	6,871,451,276
DEDUCTIONS:	
Deductions from net assets attributed to:	
Transfers out	312,320,219

Net increase in net assets	6,559,131,057
Net assets available for plan benefits:	
Beginning of year	
End of year	$ 6,559,131,057

At December 31, 2009, the Plan s interest in the net assets of the Master Trust was approximately 41%.

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NOTES TO FINANCIAL STATEMENTS (continued)

(8) Investment in Master Trust

The Master Trust assets are allocated among the participating plans by assigning to each plan those transactions (primarily contributions and benefit payments) that can be specifically identified. The Plan s ownership percentage in these investments and transactions does not represent an undivided interest.

The following table presents the fair values of investments in the Master Trust and the Plan s percentage interest in each investment class of the Master Trust:

	December 31, 2009	
	Fair value	Plan s ownership percentage
The Bank of New York Mellon Corporation common stock	$ 909,072,913	75%
Other common stock	715,353,654	
Registered investment companies (a)	114,473,733	98
Mutual funds	312,272,351	100
Collective trust funds	2,281,074,568	53
U.S. Government obligations	492,483,202	
Corporate debt obligations	762,315,169	
Venture capital	201,372,695	
Foreign government obligations	7,919,867	
State and political subdivision obligations	2,311,719	
Funds of funds	438,249,750	67
Preferred stock	3,411,890	
Interest bearing cash	672,414	
Investment contracts with insurance companies	193,157,037	
Total investments at fair value	$ 6,434,140,962	41%

(a) None of the funds in the Plan s Self-Directed Account exceeded 5% of net assets available for plan benefits at the end of the plan year.

Individual investments in the Master Trust that represent 5% or more of the Master Trust s net assets available for plan benefits are as follows:

	December 31, 2009
The Bank of New York Mellon Corporation common stock	$ 909,072,913
Large Cap Stock Index Fund	527,940,838

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NOTES TO FINANCIAL STATEMENTS (continued)

Individual investments in the Plan that represent 5% or more of the Plan s net assets available for plan benefits are as follows:

	December 31, 2009
The Bank of New York Mellon Corporation common stock	$ 683,070,893
Large Cap Stock Index Fund	527,663,769
Aggregate Bond Index Fund	207,651,503
Small-Mid Cap Stock Index Fund	146,773,063
International ACWI ex U.S. Stock Index Fund	170,406,692
Wells Fargo Money Market Mutual Fund	162,193,976

Investment income for the Master Trust is as follows:

	Year ended December 31, 2009
Net appreciation (depreciation) in fair value of investments	
Common stock	$ 173,723,495
Registered investment companies	40,642,171
Mutual funds	1,737,711
Collective trust funds	379,780,924
U.S. Government obligations	(53,322,723)
Corporate debt obligations	100,242,077
Venture capital	(4,707,043)
Foreign government obligations	(892,960)
State and political subdivision obligations	(777,968)
Funds of funds	121,714,782
Preferred stock	1,186,662
Interest bearing cash	96,383
Investment contracts with insurance companies	(3,161,424)
Net appreciation (depreciation) in fair value of investments	756,262,087
Interest	51,274,162
Dividends	37,802,355
Total investment income	$ 845,338,604

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NOTES TO FINANCIAL STATEMENTS (continued)

Prior to January 1, 2009, the Plan s investments were held in the Mellon 401(k) Trust. The following table presents the fair values of investments at December 31, 2008:

	December 31, 2008
* The Bank of New York Mellon Corporation Common Stock**	$ 304,026,908
* Self-directed account	88,853,279(a)
* Collective trust funds	
Mellon Stable Value Fund	93,997,523*
Daily Liquidity Money Market Fund	132,541,989*
Daily Liquidity Stock Index Fund	257,243,860*
Daily Liquidity Aggregate Bond Index Fund	66,203,575*
Daily Liquidity Asset Allocation Fund	85,815,181*
Daily Liquidity International Stock Index Fund	83,915,769*
Daily Liquidity Small Cap Stock Index Fund	51,219,388
Total investments at fair value	$ 1,163,817,472

* Investments greater than 5% of net assets available for plan benefits at the end of the plan year.

** The Company s matching contribution was deposited to this fund. In addition, plan participants could have directed their investments to this fund.

(a) None of the funds in the Plan s Self-Directed Account exceeded 5% of net assets available for plan benefits at the end of the plan year.

During 2008, the Plan s investments (including net realized gains of $8,623,679 on investments bought and sold) depreciated in value respectively, as follows:

	Year ended December 31, 2008
Registered investment companies	$ (48,680,471)
Collective trust funds	(281,440,232)
Common stock	(215,134,534)
	$ (545,255,237)

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NOTES TO FINANCIAL STATEMENTS (continued)

(9) Summary of Investment Activity in The Bank of New York Mellon Corporation Common Stock

Information about the net assets and the significant components of the changes in net assets relating to the Master Trust s investments in the Company s common stock is as follows:

	December 31, 2009
Net assets:	
Common stock	$ 909,072,913

	Year ended December 31, 2009
Changes in net assets:	
Transfers into Master Trust	$ 1,036,597,869
Investment income	3,915,655
Transfers out of Master Trust	(131,440,611)
Total investment in the Company s common stock	$ 909,072,913

Information about the net assets and the significant components of the changes in net assets relating to the Plan s investments in the Company s common stock is as follows:

	December 31, 2008
Net assets:	
Common stock	$ 304,026,908

	Year ended December 31, 2008
Changes in net assets:	
Contributions	$ 35,882,392
Dividends	10,055,221
Net depreciation (including realized gains of $11,400,693)	(215,134,534)
Participant withdrawals	(20,330,111)
Net transfers to participant-directed investments	(15,853,302)
Net decrease in net assets relating to investments in Company common stock	$ (205,380,334)

Participant contributions and rollovers invested in Company common stock in 2008 totaled $4,948,982.

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NOTES TO FINANCIAL STATEMENTS (continued)

(10) Fair Value Measurement

The Plan adopted guidance related to Fair Value Measurements, included in ASC 820, effective January 1, 2008. ASC 820 defines fair value as the price that would be received to sell an asset, or paid to transfer a liability, in an orderly transaction between market participants at the measurement date and establishes a framework for measuring fair value. It establishes a three-level hierarchy for fair value measurements based upon the transparency of inputs to the valuation of an asset or liability as of the measurement date.

Valuation hierarchy

A financial instrument s categorization within the valuation hierarchy is based upon the lowest level of input that is significant to the fair value measurement. The three levels of the fair value hierarchy under ASC 820 are described as follows:

Level 1	Inputs to the valuation methodology are quoted prices (unadjusted) for identical assets or liabilities in active markets. Level 1 assets include registered investment companies and common stocks.
Level 2	Observable inputs other than Level 1 prices, for example, quoted prices for similar assets and liabilities in active market, quoted prices for identical or similar assets or liabilities in markets that are not active, and inputs that are observable or can be corroborated, either directly or indirectly, for substantially the full term of the financial instrument. Level 2 assets and liabilities include items that are traded less frequently than exchange traded securities and whose model inputs are observable in the market or can be corroborated by market observable data. Examples in this category are collective trust funds and funds of funds.
Level 3	Inputs to the valuation methodology are unobservable and significant to the fair value measurement. These unobservable inputs reflect the Plan s own assumptions about the market that participants would use to price an asset based on the best information available in the circumstances. Level 3 assets include venture capital investments and investment contracts with insurance companies.

Valuation Methodologies

Following is a description of the valuation methodologies used for instruments measured at fair value.

Common and preferred stock and registered investment companies: These types of securities are valued at the closing price reported in the active market in which the individual securities are traded, if available. Where there is no readily available market quotation, we determine fair value primarily based on pricing sources with reasonable levels of price transparency.

Collective trust funds and funds of funds: There are no readily available market quotations for these funds. The fund s fair value is based on securities in the portfolio, which typically is the amount the fund might reasonably expect to receive for the security upon a sale. These funds are either valued on a daily or monthly basis.

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NOTES TO FINANCIAL STATEMENTS (continued)

Corporate and government obligations: Certain corporate and government obligations are valued at the closing price reported in the active market in which the bond is traded. Other corporate and government obligations are valued based on yields currently available on comparable securities of issuers with similar credit ratings. When quoted prices are not available for identical or similar bonds, the bond is valued using discounted cash flows that maximizes observable inputs, such as current yields of similar instruments, but include adjustments for certain risks that may not be observable, such as credit and liquidity risk.

Venture capital funds: There are no readily available market quotations for these funds. The investment s fair value is based on the Master Trust s ownership percentage of the fair value of the underlying funds as provided by the fund managers. These funds are typically valued on a quarterly basis. The Master Trust s venture capital investments are valued at NAV as a practical expedient for fair value.

Investment contracts with insurance companies: There are no readily available market quotations for these funds. The Aetna contracts are valued at the present value of the contracted benefits payable using the same mortality and investment return assumptions used to determine Plan liabilities. The other investment contracts with insurance companies are valued at contract value. These contracts are valued on an annual basis.

The preceding methods described may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. Furthermore, although the Master Trust believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies and assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement at the reporting date.

The following table sets forth by level within the fair value hierarchy the Master Trust s investment assets at fair value, as of December 31, 2009 and the investment assets of the Mellon 401(k) Trust at December 31, 2008. As required by ASC 820, assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement.

Master Trust investment assets measured at fair value on a recurring basis as of December 31, 2009

	Level 1	Level 2	Level 3	Total
Common Stock	$ 1,624,426,567	$	$	$ 1,624,426,567
Registered investment companies	114,473,733			114,473,733
Mutual funds		312,272,351		312,272,351
Collective trust funds		2,277,525,650	3,548,918	2,281,074,568
U.S. government obligations	374,140,127	118,343,075		492,483,202
Corporate debt obligations		762,315,169		762,315,169
Venture capital			201,372,695	201,372,695
Foreign government obligations		7,919,867		7,919,867
State and political subdivision obligations		2,311,719		2,311,719
Funds of funds		438,249,750		438,249,750
Preferred stock	2,918,933	492,957		3,411,890
Interest bearing cash	672,414			672,414
Investment contracts with insurance companies			193,157,037	193,157,037
Total Master Trust investment assets at fair value	**$ 2,116,631,774**	**$ 3,919,430,538**	**$ 398,078,650**	**$ 6,434,140,962**

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NOTES TO FINANCIAL STATEMENTS (continued)

The following table sets forth by level within the fair value hierarchy the Plan s investment assets at fair value, as of December 31, 2008.

Investment assets measured at fair value on a recurring basis as of December 31, 2008

	Level 1	Level 2	Level 3	Total
Registered investment companies	$ 88,853,279	$	$	$ 88,853,279
Common Stock	304,026,908			304,026,908
Collective Trust Funds		770,937,285		770,937,285
Total investment assets at fair value	**$ 392,880,187**	**$ 770,937,285**	**$**	**$ 1,163,817,472**

Master Trust fair value measurements using significant unobservable inputs for the year ended December 31, 2009

	Fair value at 1/1/09	Total realized / unrealized gain/(loss)	Purchases issuances and settlements, net	Transfers in/out	Fair value at 12/31/09
Venture capital	$ 107,702,749	$ (1,670,589)	$ 95,340,535	$	$ 201,372,695
Non-registered investment companies	80,599,942	14,123,842	(94,723,784)		
Collective trust funds		(6,943,968)	10,492,886		3,548,918
Investment contracts with insurance companies	196,318,461	(3,161,424)			193,157,037
Total	**$ 384,621,152**	**$ 2,347,861**	**$ 11,109,637**	**$**	**$ 398,078,650**

The Plan did not have any Level 3 assets for the year ended December 31, 2008.

The Master Trust has investments in alternative investment funds in which the fair value of these investments has been estimated using the net asset value (NAV) per share. The table below presents information about the Master Trust s investments valued at the funds NAV.

Master Trust investments valued using NAV as of December 31, 2009

	Fair Value	Unfunded commitments	Redemption frequency	Redemption notice period
Venture capital funds	$ 201,372,695	53,276,634	N/A	N/A
Total	**$ 201,372,695**	**$ 53,276,634**		

(11) Fair Value of Master Trust and Plan Net Assets Available for Plan Benefits

Note 10 of Notes to Financial Statements presents investments measured at fair value by the three level valuation hierarchy established by ASC 820. At December 31, 2009 for the Master Trust and 2008 for the Plan, loans to participants of $61,273,498 and $23,019,538, respectively were valued at amortized cost which approximates fair value. At December 31, 2009 and 2008, pending investment sales and other receivables of $75,871,175 and $3,536,341, and pending investment purchases and other liabilities of $10,317,127 and $1,217,964, equaled fair value due to short maturities.

(12) Plan Amendments

Effective November 6, 2003, the Plan was amended to allow the Benefits Investment Committee to place restrictions on trading in selected funds. Pursuant to this amendment, beginning March 15, 2004, an administrative restriction applies to account balance transfers in and out of 401(k) investment funds that hold international securities, because these funds are particularly at risk for trading activity that might harm or are inconsistent with the Plan s retirement objectives. With this restriction, participants may not buy and then sell, or sell and then buy, shares in certain core funds in the Plan within any 15-day calendar period.

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NOTES TO FINANCIAL STATEMENTS (continued)

Effective January 1, 2006, pursuant to Internal Revenue Service regulation changes, the Company is no longer permitted to offer displaced employees, or those who are on salary continuance, the opportunity to contribute to the Plan. Employer matching contributions also stop when employee contributions stop. However, displaced employees will continue to earn vesting service in the Plan while receiving salary continuance.

See Note 15 of Notes to Financial Statements for additional information relating to amendments subsequent to December 31, 2009.

(13) Reconciliation of The Bank of New York Mellon Corporation 401(k) Savings Plan Financial Statements to Form 5500

The following is a reconciliation of net assets available for plan benefits per the financial statements to the Form 5500:

	December 31,	
	2009	**2008**
Net assets available for plan benefits per the financial statements	$ 2,671,288,052	$ 1,193,921,712
Participant withdrawals	(1,831,769)	(2,933,873)
Adjustment from fair value to contract value for fully benefit-responsive investment contracts	1,857,906	(4,175,637)
Net assets available for benefits per the Form 5500	$ 2,671,314,189	$ 1,186,812,202

The following is a reconciliation of benefits paid to participants per the financial statements to the Form 5500:

	Year ended December 31, 2009
Participants withdrawals per the financial statements	$ 150,927,022
Amounts payable at December 31, 2009	1,831,769
Amounts payable at December 31, 2008	(2,933,873)
Benefits paid to participants per the Form 5500	$ 149,824,918

consolidating manufacturing, research and development operations and health information or other technology platforms, where appropriate;

integrating newly-acquired businesses or product lines into a uniform financial reporting system;

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coordinating sales, distribution and marketing functions and strategies, including the integration of our current health information solutions products and services;

establishing or expanding manufacturing, sales, distribution and marketing functions in order to accommodate newly-acquired businesses or product lines or rationalizing these functions to take advantage of synergies;

preserving the important licensing, research and development, manufacturing and supply, distribution, marketing, customer and other relationships of acquired businesses;

minimizing the diversion of management s attention from ongoing business concerns;

the potential loss of key employees of the acquired business;

coordinating geographically separate operations; and

regulatory and legal issues relating to the integration of legacy and newly-acquired businesses.

These factors could have a material adverse effect on our business, results of operations or financial condition, and managing multiple acquisitions or investments at the same time could exacerbate these risks. To the extent that we issue equity securities in connection with any acquisition or investment, existing shareholders may experience dilution. Additionally, regardless of the form of consideration we pay, acquisitions and investments could negatively impact our net income and earnings per share.

If goodwill or other intangible assets that we have recorded in connection with our acquisitions of other businesses become impaired, we could have to take significant charges against earnings.

As a result of our acquisitions, we have recorded, and may continue to record, a significant amount of goodwill and other intangible assets. Under current accounting guidelines, we must assess, at least annually and potentially more frequently, whether the value of goodwill and other intangible assets has been impaired. For example, during the fourth quarters of 2011 and 2010, we determined that our goodwill related to our health information solutions business was impaired, resulting in non-cash impairment charges in the amount of approximately $383.6 million and $1.0 billion, respectively. Any further reduction or impairment of the value of goodwill or other intangible assets will result in additional charges against earnings, which could materially reduce our reported results of operations in future periods.

We do not have complete control over the operations of SPD, our 50/50 joint venture with P&G.

Because SPD is a 50/50 joint venture, we do not have complete control over its operations, including business decisions, which may impact SPD s profitability.

Additionally, certain subsidiaries of P&G have the right, at any time upon certain material breaches by us or our subsidiaries of our obligations under the joint venture documents, to acquire all of our interest in SPD at fair market value less any applicable damages.

Our operating results may fluctuate for various reasons and, as a result, period-to-period comparisons of our results of operations will not necessarily be meaningful.

Many factors relating to our business, such as those described elsewhere in this section, make our future operating results uncertain and may cause them to fluctuate from period to period. Because our revenue and operating results are difficult to predict, we believe that period-to-period comparisons of our results of operations are not a good indicator of our future performance. If revenue declines in a quarter, our results of operations will be harmed because many of our expenses are relatively fixed. In particular, research and development, sales and marketing and general and administrative expenses are not significantly affected by variations in revenue. If our quarterly operating results fail to meet or exceed the expectations of securities analysts or investors, our stock price could drop suddenly and significantly.

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Our effective tax rate may fluctuate, and we may incur obligations in tax jurisdictions in excess of amounts that have been accrued.

We are subject to income taxes in both the United States and various foreign jurisdictions, and we may take certain income tax positions on our tax returns that tax authorities may disagree with. We provide reserves for potential payments of tax to various tax authorities related to uncertain tax positions. However, the calculation of our tax liabilities involves the application of complex tax regulations to our global operations in many jurisdictions. Therefore, a dispute with a tax authority may result in a payment that is materially different from our current estimate of the tax liabilities associated with our returns.

Changes in tax laws or tax rulings could materially impact our effective tax rate. There are several proposals to reform U.S. tax rules being considered by U.S. law makers, including proposals that may reduce or eliminate the deferral of U.S. income tax on our unrepatriated earnings, potentially requiring those earnings to be taxed at the U.S. federal income tax rate, reduce or eliminate our ability to claim foreign tax credits, and eliminate various tax deductions until foreign earnings are repatriated to the U.S. Our future reported financial results may be adversely affected by tax rule changes which restrict or eliminate our ability to claim foreign tax credits or deduct expenses attributable to foreign earnings, or otherwise affect the treatment of our unrepatriated earnings.

We may incur losses in excess of our insurance coverage.

Our insurance coverage includes product liability, property, healthcare professional and business interruption policies. Our insurance coverage contains policy limits, specifications and exclusions. We believe that our insurance coverage is consistent with general practices within our industry. Nonetheless, we may incur losses of a type for which we are not covered by insurance or which exceed the limits of liability of our insurance policies. In that event, we could experience a significant loss which could have a material negative impact on our financial condition.

Our future success depends on our ability to recruit and retain key personnel.

Our future success depends on our continued ability to attract, hire and retain highly qualified personnel, including our executive officers and scientific, technical, sales and marketing employees, and their ability to manage growth successfully. Experienced personnel in our industry are in high demand and competition for their talents is intense. If we are unable to attract and retain key personnel, our business may be harmed. In addition, the loss of any of our key personnel, particularly key research and development personnel, could harm our business and prospects and could impede the achievement of our research and development, operation or strategic objectives.

The terms of the Series B Preferred Stock may limit our ability to raise additional capital through subsequent issuances of preferred stock.

For so long as any shares of Series B Preferred Stock remain outstanding, we are not permitted, without the affirmative vote or written consent of the holders of at least two-thirds of the Series B Preferred Stock then outstanding, to authorize or designate any class or series of capital stock having rights on liquidation or as to distributions (including dividends) senior to the Series B Preferred Stock. This restriction could limit our ability to plan for or react to market conditions or meet extraordinary capital needs, which could have a material adverse impact on our business.

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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Exchange Act. You can identify these statements by forward-looking words such as may, could, should, would, intend, expect, anticipate, believe, estimate, continue or similar words. You should read statements that contain these words carefully because they discuss our future expectations, contain projections of our future results of operations or of our financial condition or state other forward-looking information. There may be events in the future that we are unable to predict accurately or control and that may cause our actual results to differ materially from the expectations we describe in our forward-looking statements. We caution investors that all forward-looking statements involve risks and uncertainties, and actual results may differ materially from those we discuss in this prospectus. These differences may be the result of various factors, including the factors identified in the section entitled Risk Factors in this prospectus, the factors identified in the sections entitled Risk Factors in our annual report on Form 10-K for the year ended December 31, 2012 and other factors identified from time to time in our periodic filings with the SEC. Some important factors that could cause our actual results to differ materially from those projected in any such forward-looking statements are as follows:

our inability to predict the effects of the recent national and worldwide financial and economic crisis, including disruptions in the capital and credit markets, and recent and potential legislative and regulatory responses to the crisis, including the Dodd-Frank Act;

our inability to accurately predict the impact of the Patient Protection and Affordable Care Act of 2010 (as amended by the Health Care and Education Reconciliation Act of 2010), and other healthcare or health insurance reform initiatives which may be implemented in the United States and in other countries;

economic factors, including inflation and fluctuations in interest rates and foreign currency exchange rates, and the potential effect of such fluctuations on revenues, expenses and resulting margins;

the effects of the disruptions in the capital and credit markets, either in the United States or in other countries, and potential legislative and regulatory responses to such disruptions;

competitive factors, including technological advances achieved and patents obtained by competitors and general competition;

domestic and foreign healthcare changes resulting in pricing pressures, including the continued consolidation among healthcare providers, trends toward managed care and healthcare cost containment, and laws and regulations relating to sales and promotion, reimbursement and pricing generally;

laws and regulations affecting domestic and foreign operations, including those relating to trade, monetary and fiscal policies, taxes, price controls, regulatory approval of new products, licensing and environmental protection;

manufacturing interruptions, delays or capacity constraints or lack of availability of alternative sources for components for our products, including our ability to successfully maintain relationships with suppliers, or to put in place alternative suppliers on terms that are acceptable to us;

difficulties inherent in product development, including the potential inability to successfully continue technological innovation, complete clinical trials, obtain regulatory approvals or clearances in the United States and abroad and the possibility of encountering infringement claims with respect to patent or other intellectual property rights, which can preclude or delay commercialization of a product;

significant litigation adverse to us including product liability claims, patent infringement claims and antitrust claims;

product efficacy or safety concerns resulting in product recalls or declining sales;

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- the impact of business combinations and organizational restructurings consistent with evolving business strategies;
- our ability to satisfy the financial covenants and other conditions contained in the agreements governing our indebtedness;
- our ability to effectively manage the integration of our acquisitions into our operations;
- our ability to obtain required financing on terms that are acceptable to us; and
- the issuance of new or revised accounting standards by the American Institute of Certified Public Accountants, the Financial Accounting Standards Board, the Public Company Accounting Oversight Board or the SEC or the impact of any pending unresolved SEC comments.

The foregoing list provides many, but not all, of the factors that could impact our ability to achieve the results described in any forward-looking statement. Readers should not place undue reliance on our forward-looking statements. Before you invest in the new notes, you should be aware that the occurrence of the events described above and elsewhere in this prospectus could seriously harm our business, prospects, operating results and financial condition. We do not undertake any obligation to update any forward-looking statement as a result of future events or developments.

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SELECTED CONSOLIDATED FINANCIAL INFORMATION AND OTHER DATA

The following tables provide our selected consolidated financial data as of the dates and for the periods shown. Our selected consolidated statement of operations data for the years ended December 31, 2010, 2011 and 2012 and our selected consolidated balance sheet data as of December 31, 2011 and 2012 have been derived from our consolidated financial statements incorporated by reference in this prospectus, which have been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as indicated in their report attached thereto. Our selected consolidated balance sheet data as of December 31, 2010 have been derived from our consolidated financial statements not incorporated by reference in this prospectus, which have been audited by PricewaterhouseCoopers LLP. Our selected consolidated statement of operations data for the years ended December 31, 2008 and 2009 and our selected consolidated balance sheet data as of December 31, 2008 and 2009 are derived from our consolidated financial statements not incorporated by reference in this prospectus, which have been audited by BDO USA, LLP, our former independent registered public accounting firm. Our selected consolidated financial data presented below as of June 30, 2013 and for the six month periods ended June 30, 2013 and 2012 have been prepared on the same basis as our audited consolidated financial statements, are derived from our unaudited consolidated financial statements incorporated by reference herein and, in the opinion of management, include all adjustments (consisting of only normal recurring adjustments) necessary for a fair presentation thereof. Interim results are not necessarily indicative of our results for the entire year or any future period.

The selected consolidated financial data set forth below should be read in conjunction with, and are qualified in their entirety by reference to, our audited and unaudited consolidated financial statements, including the related notes thereto, incorporated by reference herein, or, in the case of our selected consolidated statement of operations data for the years ended December 31, 2008 and 2009 and our selected consolidated balance sheet data as of December 31, 2008, 2009 and 2010, not incorporated by reference herein but included in our annual reports on Form 10-K for such periods and our Management s Discussion and Analysis of Financial Condition and Results of Operations for the periods incorporated by reference herein, or, in the case of the years ended December 31, 2008 and 2009, not incorporated by reference herein but included in our annual reports on Form 10-K for such periods.

On January 15, 2010, we completed the sale of our vitamins and nutritional supplements business. The sale included our entire private label and branded nutritionals businesses and represents the complete divestiture of our entire vitamins and nutritional supplements business segment. The results of the vitamins and nutritional supplements business are included in income (loss) from discontinued operations, net of tax, for all periods presented in the statement of operations data below. The assets and liabilities associated with the vitamins and nutritional supplements business have been reclassified to current classifications as assets held for sale and liabilities related to assets held for sale and, as such, have impacted working capital amounts, which are reflected in the balance sheet data section below, for all balance sheet dates presented.

We have also engaged in a number of acquisitions in recent years, which makes it difficult to analyze our results and to compare them from period to period. Significant acquisitions since the beginning of 2008 include our acquisitions of Matria in May 2008, the ACON second territory business in April 2009, and Standard Diagnostics in February 2010. Period-to-period comparisons of our results of operations may not be meaningful due to these transactions and are not indications of our future performance. Any future acquisitions or dispositions will also make our results difficult to compare from period to period.

For a discussion of certain factors that materially affect the comparability of the selected consolidated financial data or cause the data reflected herein not to be indicative of our future results of operations or financial condition, see the section entitled Risk Factors in this prospectus and Item 7 Management s Discussion and Analysis of Financial Condition and Results of Operations and Notes 2(v) and 4 of our Consolidated Financial Statements included in our Annual Report on Form 10-K for the year ended December 31, 2012 and Item 2 Management s Discussion and Analysis or Financial Condition and Results of Operations and Notes 7 and 17

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of our Consolidated Financial Statement included in our Quarterly Report on Form 10-Q for the six months ended June 30, 2013.

	For the Year Ended December 31,					For the Six Months Ended June 30,	
	2008	2009	2010	2011	2012	2012	2013
						(Unaudited)	
	(In thousands, except per share data)						
Statement of Operations Data:							
Net product sales	$ 1,151,265	$ 1,365,079	$ 1,472,403	$ 1,683,132	$ 1,913,731	$ 939,212	$ 1,029,838
Services revenue	405,462	528,487	662,185	679,922	876,518	426,289	464,467
Net product sales and services revenue	1,556,727	1,893,566	2,134,588	2,363,054	2,790,249	1,365,501	1,494,305
License and royalty revenue	25,826	29,075	20,759	23,473	28,576	6,145	8,929
Net revenue	1,582,553	1,922,641	2,155,347	2,386,527	2,818,825	1,371,646	1,503,234
Cost of net product sales	543,317	619,503	688,325	795,424	932,150	448,052	506,267
Cost of services revenue	177,098	240,026	325,286	338,232	450,999	211,419	244,968
Cost of net product sales and services revenue	720,415	859,529	1,013,611	1,133,656	1,383,149	659,471	751,235
Cost of license and royalty revenue	8,620	8,890	7,149	7,036	7,354	3,496	3,255
Cost of net revenue	729,035	868,419	1,020,760	1,140,692	1,390,503	662,967	754,490
Gross profit	853,518	1,054,222	1,134,587	1,245,835	1,428,322	708,679	748,744
Operating expenses:							
Research and development	111,828	112,848	133,278	150,165	183,001	79,447	81,954
Sales and marketing	381,939	441,646	499,124	565,583	643,423	317,900	315,878
General and administrative	295,059	357,033	446,917	399,330	492,766	241,920	276,019
Goodwill impairment charge			1,006,357	383,612			
Gain on dispositions, net		(3,355)					
Operating income (loss)	64,692	146,050	(951,089)	(252,855)	109,132	69,412	74,893
Interest expense, including amortization of original issue discounts and write-off of deferred financing costs and other income (expense), net	(102,939)	(105,802)	(116,697)	86,808	(230,603)	(90,616)	(149,259)
Income (loss) from continuing operations before provision (benefit) for income taxes	(38,247)	40,248	(1,067,786)	(166,047)	(121,471)	(21,204)	(74,366)
Provision (benefit) for income taxes	(16,644)	15,627	(29,931)	(24,214)	(30,319)	(1,944)	(19,004)
Income (loss) from continuing operations before equity earnings of unconsolidated entities, net of tax	(21,603)	24,621	(1,037,855)	(141,833)	(91,152)	(19,260)	(55,362)
Equity earnings of unconsolidated entities, net of tax	1,050	7,626	10,566	8,524	13,245	7,410	7,485
Income (loss) from continuing operations	(20,553)	32,247	(1,027,289)	(133,309)	(77,907)	(11,850)	(47,877)
Income (loss) from discontinued operations, net of tax	(1,048)	1,934	11,397				
Net income (loss)	(21,601)	34,181	(1,015,892)	(133,309)	(77,907)	(11,850)	(47,877)
Less: Net income (loss) attributable to non-controlling interests	167	465	1,418	233	275	(149)	242
Net income (loss) attributable to Alere Inc. and Subsidiaries	(21,768)	33,716	(1,017,310)	(133,542)	(78,182)	(11,701)	(48,119)
Preferred stock dividends	(13,989)	(22,972)	(24,235)	(22,049)	(21,293)	(10,588)	(10,559)
Preferred stock repurchase				23,936			

Net income (loss) available to common stockholders(1)	$	(35,757)	$	10,744	$	(1,041,545)	$	(131,655)	$	(99,475)	$	(22,289)	$	(58,678)		
Basic and diluted net income (loss) per common share attributable to Alere Inc. and Subsidiaries																
Income (loss) per common share from continuing operations	$	(0.45)	$	0.11	$	(12.47)	$	(1.58)	$	(1.23)	$	(0.28)	$	(0.72)		
Income (loss) per common share from discontinued operations	$	(0.01)	$	0.02	$	0.14	$		$		$		$			
Net income (loss) per common share(1)	$	(0.46)	$	0.13	$	(12.33)	$	(1.58)	$	(1.23)	$	(0.28)	$	(0.72)		
Other financial data:																
Ratio of earnings to fixed charges(2)(3)		0.7x		1.4x				0.2x		0.5x		0.9x		0.4x		
Ratio of earnings to fixed charges and preference dividends(2)(4)		0.5x		1.0x				0.2x		0.5x		0.8x		0.4x		

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(1) Net income (loss) available to common stockholders and basic and diluted net income (loss) per common share are computed consistent with annual per share calculations described in notes 2(o) and 12 of our annual consolidated financial statements incorporated by reference in this prospectus.

(2) For the purpose of computing our ratio of earnings to fixed charges, earnings consist of pre-tax income before adjustment for income from equity investees plus fixed charges (excluding capitalized interest). Fixed charges consist of interest expensed and capitalized, amortized premiums, discounts and capitalized expenses related to indebtedness and an estimate of the interest within rental expense. This ratio is adjusted to include preference dividends in the ratio of earnings to combined fixed charges and preference dividends. Preference dividends equal the amount of pre-tax earnings that is required to pay the dividends on outstanding preference securities.

(3) For the years ended December 31, 2008, 2010, 2011 and 2012 and the six month periods ended June 30, 2012 and 2013, our earnings were insufficient to fully cover our fixed charges. The amount of the coverage deficiency in such periods was $37.0 million, $1.1 billion, $164.3 million, $109.0 million, $12.8 million and $70.4 million, respectively.

(4) For the years ended December 31, 2008, 2010, 2011 and 2012 and the six month periods ended June 30, 2012 and 2013, our earnings were insufficient to fully cover our combined fixed charges and preference dividends. The amount of the coverage deficiency in such periods was $60.4 million, $1.1 billion, $201.0 million, $144.5 million, $30.4 million and $88.0 million, respectively.

	December 31,					June 30,
	2008	2009	2010	2011	2012	2013 (Unaudited)
	(In thousands)					
Balance Sheet Data:						
Cash and cash equivalents	$ 141,324	$ 492,773	$ 401,306	$ 299,173	$ 328,346	$ 320,547
Working capital	$ 470,349	$ 828,944	$ 411,399	$ 669,275	$ 757,928	$ 748,649
Total assets	$ 5,955,360	$ 6,943,992	$ 6,330,374	$ 6,672,701	$ 7,067,928	$ 7,100,005
Total debt	$ 1,520,534	$ 2,149,324	$ 2,398,985	$ 3,353,495	$ 3,708,508	$ 3,876,484
Other long-term obligations	$ 809,254	$ 847,634	$ 589,822	$ 534,098	$ 594,823	$ 587,793
Total stockholders equity	$ 3,278,838	$ 3,527,555	$ 2,575,038	$ 2,229,234	$ 2,180,422	$ 2,027,572

THE EXCHANGE OFFER

As a condition to the initial sale of the old notes, we and certain of our domestic subsidiaries entered into a registration rights agreement with Goldman, Sachs & Co., Jefferies LLC and Credit Suisse Securities (USA) LLC, as representatives of the initial purchasers of the old notes. In that agreement, we agreed, at our cost, to file with the SEC, on or before October 21, 2013, the registration statement of which this prospectus forms a part, which we refer to in this prospectus as the registration statement, with respect to a registered offer to exchange the old notes for the new notes. In addition, we agreed to use our commercially reasonable efforts to cause the registration statement to become effective under the Securities Act on or before January 19, 2014 and to consummate the exchange offer on or before February 18, 2014. If we fail to meet the filing, effectiveness or completion deadlines set forth in the registration rights agreement, we will be required to pay the holders of old notes additional interest at a rate of 0.25% per annum for the first 90-day period immediately following failure to meet any of the filing, effectiveness or completion deadlines, increasing by an additional 0.25% per annum with respect to each subsequent 90-day period up to a maximum amount of additional interest of 1.00% per annum from and including the date on which any of the deadlines listed above were not met to, but excluding, the earlier of (1) the date on which all registration defaults have been cured or (2) the date on which all of the old notes otherwise become freely transferable by holders other than affiliates of us or any guarantor subsidiary without further registration under the Securities Act. Under certain circumstances we and our guarantor subsidiaries may delay the filing or the effectiveness of the registration statement for a period of up to 90 days. Any delay period will not alter our obligations to pay additional interest. This summary of the terms of the registration rights agreement does not contain all of the information that you may wish to consider, and we refer you to the provisions of the registration rights agreement, which has been filed as an exhibit to the registration statement and copies of which are available as indicated under the heading Where You Can Find More Information.

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The exchange offer is being made pursuant to the registration rights agreement to satisfy our obligations thereunder. You are a holder with respect to the exchange offer if your old notes are registered in your name on our books or if you have obtained a properly completed bond power from the registered holder or any person whose old notes are held of record by DTC.

Upon the effectiveness of the registration statement, we must offer the new notes in exchange for surrender of the old notes. We must keep the exchange offer open for not less than 30 days (or longer if required by applicable law) after the date notice of the exchange offer is mailed to the holders of the old notes. For each old note surrendered to us pursuant to the exchange offer, the holder of such old note will receive a new note having a principal amount equal to that of the surrendered old note. Under existing SEC interpretations, the new notes and the related guarantees will be freely transferable by holders other than affiliates of us or any guarantor subsidiary after the exchange offer without further registration under the Securities Act, except as described below.

If you do not tender your old notes, or if your old notes are tendered but not accepted, you generally will have to rely on exemptions from the registration requirements of the securities laws, including the Securities Act, if you wish to sell your old notes.

Under existing SEC interpretations, we believe the new notes and the related guarantees will generally be freely transferable by holders other than affiliates of us or any guarantor subsidiary after the exchange offer without further registration under the Securities Act. If you wish to exchange your old notes for new notes, you will be required to represent that, among other things:

- you are not an affiliate (as defined in Rule 405 under the Securities Act) of us or any guarantor subsidiary of the new notes, or if you are an affiliate, you will comply with the registration and prospectus delivery requirements under the Securities Act to the extent applicable;
- you are not participating, do not intend to participate and have no arrangement or understanding with any person to participate in the distribution (within the meaning of the Securities Act) of the new notes in violation of the provisions of the Securities Act;
- you will receive the new notes in the ordinary course of your business;
- if you are not a broker-dealer, you are not engaged in, and do not intend to engage in, a distribution of new notes; and
- if you are a broker-dealer that will receive new notes for your own account in exchange for old notes acquired as a result of market-making or other trading activities, which we refer to in this prospectus as a participating broker-dealer, you will deliver a prospectus in connection with any resale of such new notes.

Under existing SEC interpretations, participating broker-dealers may fulfill their prospectus delivery requirements with respect to the new notes (other than a resale of an unsold allotment from the original sale of the old notes) with this prospectus, as it may be amended or supplemented from time to time. Under the registration rights agreement, if timely requested by a participating broker-dealer, we and our guarantor subsidiaries are required to use our commercially reasonable efforts to keep the registration statement continuously effective for a period of up to 45 days (or such earlier date on which such broker-dealers no longer hold any old notes), subject to extension under certain circumstances involving a suspension of the effectiveness of the registration statement, after the date on which it is declared effective in order to enable them to satisfy their prospectus delivery requirements.

The exchange offer is not being made to you, and you may not participate in the exchange offer, in any jurisdiction in which the exchange offer or its acceptance would not be in compliance with the laws of that jurisdiction or would otherwise not be in compliance with any provision of any applicable securities laws.

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Terms of the Exchange Offer

Upon the terms and subject to the conditions set forth in this prospectus and in the accompanying letter of transmittal, we will accept any and all old notes validly tendered prior to the expiration time. You should read Expiration Date and Time; Extensions; Termination; Amendments below for an explanation of how the expiration time may be extended. We will issue up to $425.0 million aggregate principal amount of new notes in exchange for a like principal amount of outstanding old notes that are validly tendered and accepted in the exchange offer. Subject to the conditions of the exchange offer described below, we will accept any and all old notes that are validly tendered.

You may tender some or all of your old notes pursuant to the exchange offer. However, old notes may be tendered only in minimum denominations of $2,000 and integral multiples of $1,000. The exchange offer is not conditioned upon the tender of any minimum aggregate principal amount of old notes.

The form and terms of the new notes will be the same in all material respects as the form and terms of the old notes tendered in exchange for such new notes, except that the new notes will be registered under the Securities Act, will not bear legends restricting their transfer, will generally not be entitled to registration rights under the registration rights agreement and will not contain the terms with respect to additional interest that relate to the old notes. The new notes will not represent additional indebtedness of ours and will be entitled to the benefits of the same indenture under which the old notes were issued. Old notes that are accepted for exchange will be canceled and retired.

Interest on the new notes will accrue from the most recent date to which interest has been paid on the old notes. Accordingly, registered holders of new notes on the relevant record date for the first interest payment date following the completion of the exchange offer will receive interest accruing from the most recent date to which interest has been paid on the old notes. Old notes accepted for exchange will cease to accrue interest from and after the date the exchange offer closes. If your old notes are accepted for exchange, you will not receive any payment in respect of interest on the old notes for which the record date occurs on or after completion of the exchange offer.

You do not have any appraisal rights or dissenters rights in connection with the exchange offer. If you do not tender your old notes for exchange or if your tender is not accepted, your old notes will remain outstanding and you will be entitled to the benefits of the indenture governing the old notes, but generally will not be entitled to any registration rights under the registration rights agreement.

In connection with the exchange offer, there are no federal or state regulatory requirements that must be complied with or approval that must be obtained, except for the declaration by the SEC of the effectiveness of the registration statement.

We will be deemed to have accepted validly tendered old notes when, as and if we have given oral or written notice (if oral to be promptly confirmed in writing) of acceptance to the exchange agent for the exchange offer. The exchange agent will act as agent for the tendering holders for the purpose of receiving the new notes from us. See Acceptance of Old Notes for Exchange below.

If any tendered old notes are not accepted for exchange because of an invalid tender, the occurrence of certain other events set forth in this prospectus or otherwise, we will return the certificates (if any) for the unaccepted old notes to the tendering holders of those notes, without expense, as promptly as practicable after the expiration time.

Holders of old notes exchanged in the exchange offer will not be obligated to pay brokerage commissions or transfer taxes with respect to the exchange of their old notes other than as described in Transfer Taxes or in Instruction 9 to the letter of transmittal. We will pay all other charges and expenses in connection with the exchange offer. Each holder of new notes shall pay all discounts and commissions and transfer taxes, if any, relating to the sale or disposition of such notes.

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We make no recommendation to the holders of old notes as to whether to tender or refrain from tendering all or any portion of their old notes pursuant to the exchange offer. In addition, no one has been authorized to make any such recommendation. Holders of old notes must make their own decisions regarding whether to tender pursuant to the exchange offer and, if so, the aggregate amount of old notes to tender after reading this prospectus and the letter of transmittal and consulting with their advisers, if any, based on their own financial position and requirements.

Expiration Date and Time; Extensions; Termination; Amendments

The exchange offer will expire at the expiration time unless extended by us. We expressly reserve the right to extend the exchange offer on a daily basis or for such period or periods as we may determine in our sole discretion from time to time by giving oral or written notice (if oral to be promptly confirmed in writing) to the exchange agent and by making a public announcement to that effect, prior to 9:00 a.m., New York City time, on the first business day following the previously scheduled expiration time. During any extension of the exchange offer, all old notes previously tendered, not validly withdrawn and not accepted for exchange will remain subject to the exchange offer and may be accepted for exchange by us.

To the extent we are legally permitted to do so, we expressly reserve the absolute right, in our sole discretion, to:

- delay accepting for exchange any old notes for new notes or extend or terminate the exchange offer and not accept for exchange any old notes for new notes if any of the events set forth under Conditions to the Exchange Offer occurs and we do not waive the condition by giving oral or written notice (if oral to be promptly confirmed in writing) of the waiver to the exchange agent; or

- amend any of the terms of the exchange offer.

Any delay in acceptance for exchange, extension or amendment will be followed promptly by a public announcement of the delay, extension or amendment. If we amend the exchange offer in a manner that we determine constitutes a material change, we will disseminate additional exchange offer materials and we will extend the exchange offer to the extent required by law. Any amendment to the exchange offer will apply to all old notes tendered, regardless of when or in what order the old notes were tendered. If we terminate the exchange offer, we will give immediate oral or written notice (if oral to be promptly confirmed in writing) to the exchange agent, and all old notes previously tendered and not accepted for payment will be returned promptly to the tendering holders. The rights we have reserved in this paragraph are in addition to our rights set forth under Conditions to the Exchange Offer.

If the exchange offer is withdrawn or otherwise not completed, new notes will not be given to holders of old notes that have tendered their old notes.

Acceptance of Old Notes for Exchange

Upon the terms and subject to the conditions of the exchange offer, we will accept for exchange old notes validly tendered pursuant to the exchange offer, or defectively tendered, if such defect has been waived by us, and not withdrawn before the expiration time of the exchange offer. We will not accept old notes for exchange after the expiration time of the exchange offer. Tenders of old notes will be accepted only in principal amounts equal to a minimum denomination of $2,000 and integral multiples of $1,000.

If for any reason we delay acceptance for exchange of validly tendered old notes or we are unable to accept for exchange validly tendered old notes, then the exchange agent may, nevertheless, on our behalf, retain tendered old notes, without prejudice to our rights described under Expiration Date and Time; Extensions; Termination; Amendments and Withdrawal of Tenders, subject to Rule 14e-1 under the Exchange Act, which requires that an offeror pay the consideration offered or return the securities deposited by or on behalf of the holders thereof promptly after the termination or withdrawal of a tender offer.

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If any tendered old notes are not accepted for exchange for any reason, including if certificates are submitted evidencing more old notes than those that are properly tendered, certificates evidencing old notes that are not exchanged will be returned, without expense, to the tendering holder, or, in the case of old notes tendered by book-entry transfer into the exchange agent s account at a book-entry transfer facility under the procedure set forth under Procedures for Tendering Old Notes Book-Entry Transfer, such old notes will be credited to the account maintained at such book-entry transfer facility from which such old notes were delivered, unless otherwise required by such holder under Special Delivery Instructions in the letter of transmittal, promptly following the expiration time or the termination of the exchange offer.

Procedures for Tendering Old Notes

Only a holder of old notes may tender them in the exchange offer. To validly tender in the exchange offer, you must deliver an agent s message (as described below) or a completed and signed letter of transmittal (or facsimile), together with any required signature guarantees and other required documents, to the exchange agent before the expiration time, and the old notes must be tendered pursuant to the procedures for book-entry transfer set forth below.

Any beneficial owner whose old notes are registered in the name of a broker, dealer, commercial bank, trust company or other nominee or held through a book-entry transfer facility and who wishes to tender old notes should contact such registered holder promptly and instruct such registered holder to tender old notes on such beneficial owner s behalf. If you are a beneficial owner who wishes to tender on a registered holder s behalf, prior to completing and executing the letter of transmittal and delivering the old notes, you must either make appropriate arrangements to register ownership of the old notes in your name or obtain a properly completed bond power from the registered holder. The transfer of registered ownership may take considerable time.

If you tender an old note, and do not validly withdraw your tender, your actions will constitute an agreement with us in accordance with the terms and subject to the conditions set forth in this prospectus and in the letter of transmittal.

Tender of Old Notes Held Through DTC. The exchange agent and DTC have confirmed that the exchange offer is eligible for the DTC automated tender offer program. Accordingly, DTC participants may electronically transmit their acceptance of the exchange offer by causing DTC to transfer old notes to the exchange agent in accordance with DTC s automated tender offer program procedures for transfer. DTC will then send an agent s message to the exchange agent.

The term agent s message means, with respect to any tendered old notes, a message transmitted by DTC, received by the exchange agent and forming part of the book-entry confirmation, which states that DTC has received an express acknowledgement from the tendering participant to the effect that, with respect to those old notes, the participant has received and agrees to be bound by the terms of the letter of transmittal, and that we may enforce such agreement against such participant. In the case of an agent s message relating to guaranteed delivery, the term means a message transmitted by DTC and received by the exchange agent, which states that DTC has received an express acknowledgement from the tendering participant to the effect that, with respect to those old notes, it has received and agrees to be bound by the notice of guaranteed delivery. Delivery of the agent s message by DTC will satisfy the terms of the exchange offer in lieu of execution and delivery of a letter of transmittal by the participant identified in the agent s message.

Tender of Old Notes Held in Physical Form. For a holder to validly tender old notes held in physical form:

- the exchange agent must receive at its address set forth in this prospectus a properly completed and validly executed letter of transmittal, or a manually signed facsimile thereof, together with any signature guarantees and any other documents required by the instructions to the letter of transmittal; and

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the exchange agent must receive certificates for tendered old notes at such address, or such old notes must be transferred pursuant to the procedures for book-entry transfer described above. A confirmation of such book-entry transfer must be received by the exchange agent before the expiration time of the exchange offer. A holder who desires to tender old notes and who cannot comply with the procedures set forth in this prospectus for tender on a timely basis or whose old notes are not immediately available must comply with the procedures for guaranteed delivery set forth below.

Letters of transmittal and old notes should be sent only to the exchange agent and not to us or to any book-entry transfer facility.

The method of delivery of old notes, letters of transmittal and all other required documents to the exchange agent is at your election and risk. Delivery of such documents will be deemed made only when actually received by the exchange agent. Instead of delivery by mail, we recommend that you use an overnight or hand delivery service. If delivery is by mail, we suggest that the holder use properly insured, registered mail with return receipt requested. In all cases, you should allow sufficient time to assure delivery to the exchange agent before the expiration time. You may request that your broker, dealer, commercial bank, trust company or nominee effect the tender for you. No alternative, conditional or contingent tenders of old notes will be accepted.

Signature Guarantees. Signatures on the letter of transmittal or a notice of withdrawal, as the case may be, must be guaranteed by an eligible institution unless:

the letter of transmittal is signed by the registered holder of the old notes tendered therewith, or by a participant in one of the book-entry transfer facilities whose name appears on a security position listing that lists it as the owner of those old notes, or if any old notes for principal amounts not tendered are to be issued directly to the holder, or, if tendered by a participant in one of the book-entry transfer facilities, any old notes for principal amounts not tendered or not accepted for exchange are to be credited to the participant s account at the book-entry transfer facility, and neither the Special Issuance Instructions nor the Special Delivery Instructions box on the letter of transmittal has been completed; or

the old notes are tendered for the account of an eligible institution.

An eligible institution is a bank, broker, dealer, credit union, savings association or other entity which is a member in good standing of a recognized Medallion Program approved by the Securities Transfer Association Inc., including the Securities Transfer Agent s Medallion Program (STAMP), the Stock Exchange Medallion Program (SEMP) and the New York Stock Exchange Medallion Signature Program (MSP) or any other eligible guarantor institution, as that term is defined in Rule 17Ad-15 under the Exchange Act.

If the letter of transmittal is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation or another person acting in a fiduciary or representative capacity, that person should so indicate when signing and, unless we waive it, evidence satisfactory to us of the person s authority to act must be submitted with the letter of transmittal.

Book-Entry Transfer. The exchange agent will seek to establish a new account or utilize an outstanding account with respect to the old notes at DTC promptly after the date of this prospectus. Any financial institution that is a participant in the book-entry transfer facility system and whose name appears on a security position listing that lists it as the owner of the old notes may make book-entry delivery of old notes by causing the book-entry transfer facility to transfer such old notes into the exchange agent s account. **However, although delivery of old notes may be effected through book-entry transfer into the exchange agent s account at a book-entry transfer facility, a properly completed and validly executed letter of transmittal, or a manually signed facsimile thereof, with any required signature guarantees and any other required documents must, in any case, be received by the exchange agent at its address set forth in this prospectus before the expiration time**

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of the exchange offer, or else the guaranteed delivery procedures described below must be complied with. The confirmation of a book-entry transfer of old notes into the exchange agent s account at a book-entry transfer facility is referred to in this prospectus as a book-entry confirmation. Delivery of documents to the book-entry transfer facility in accordance with that book-entry transfer facility s procedures does not constitute delivery to the exchange agent.

Guaranteed Delivery. If you wish to tender your old notes and:

certificates representing your old notes are not lost but are not immediately available;

time will not permit your letter of transmittal, certificates representing your old notes and all other required documents to reach the exchange agent before the expiration time of the exchange offer; or

the procedures for book-entry transfer cannot be completed before the expiration time of the exchange offer,

then you may tender if both of the following are complied with:

your tender is made by or through an eligible institution; and

before the expiration time of the exchange offer, the exchange agent has received from the eligible institution a properly completed and validly executed notice of guaranteed delivery, by manually signed facsimile transmission, mail or hand delivery, in substantially the form provided with this prospectus.

The notice of guaranteed delivery must:

set forth your name and address, the registered number(s) of your old notes and the principal amount of old notes tendered;

state that the tender is being made thereby; and

guarantee that, within three New York Stock Exchange trading days after the expiration time of the exchange offer, the letter of transmittal or facsimile thereof properly completed and validly executed, or an agent s message, together with certificates representing the old notes, or a book-entry confirmation, and any other documents required by the letter of transmittal and the instructions thereto, will be deposited by the eligible institution with the exchange agent.

The exchange agent must receive the properly completed and validly executed letter of transmittal or facsimile thereof with any required signature guarantees, together with certificates for all old notes in proper form for transfer, or a book-entry confirmation, and any other required documents, within three New York Stock Exchange trading days after the expiration time of the exchange offer.

Other Matters. New notes will be issued in exchange for old notes accepted for exchange only after timely receipt by the exchange agent of:

certificates for (or a timely book-entry confirmation with respect to) your old notes, a properly completed and duly executed letter of transmittal or facsimile thereof with any required signature guarantees, or, in the case of a book-entry transfer, an agent s message; and

any other documents required by the letter of transmittal.

All questions as to the form of all documents and the validity, including time of receipt, and acceptance of all tenders of old notes will be determined by us, in our sole discretion, which determination shall be final and binding. **Alternative, conditional or contingent tenders of old notes will not be considered valid**. We reserve the absolute right to reject any or all tenders of old notes that are not in proper form or the acceptance of which, in our opinion, might be unlawful. We also reserve the right to waive any defects or irregularities as to particular old notes.

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Our interpretation of the terms and conditions of the exchange offer, including the instructions in the letter of transmittal, will be final and binding.

Any defect or irregularity in connection with tenders of old notes must be cured within the time we determine, unless waived by us. Tenders of old notes will not be deemed to have been made until all defects and irregularities have been waived by us or cured. Neither we, the exchange agent nor any other person will be under any duty to give notice of any defects or irregularities in tenders of old notes, or will incur any liability to holders for failure to give any such notice. Any old notes received by the exchange agent that are not properly tendered and as to which the defects or irregularities have not been cured or waived will be returned by the exchange agent to the tendering holders, unless otherwise provided in the letter of transmittal, promptly after the expiration time.

In addition, we reserve the right in our sole discretion (subject to the limitations contained in the indenture under which the old notes were issued):

- to purchase or make offers for any old notes that remain outstanding after the expiration time; and
- to the extent permitted by applicable law, to purchase old notes in the open market, in privately negotiated transactions or otherwise.

The terms of any purchases or offers could differ from the terms of the exchange offer.

By tendering, you represent to us, among other things, that:

- you are not an affiliate (as defined in Rule 405 under the Securities Act) of us or any subsidiary guarantor of the new notes, or if you are an affiliate, you will comply with the registration and prospectus delivery requirements under the Securities Act to the extent applicable;
- you are not participating, do not intend to participate and have no arrangement or understanding with any person to participate in the distribution (within the meaning of the Securities Act) of the new notes in violation of the provisions of the Securities Act;
- you will receive the new notes in the ordinary course of your business;
- if you are not a broker-dealer, you are not engaged in, and do not intend to engage in, a distribution of new notes; and
- if you are a broker-dealer that will receive new notes for your own account in exchange for old notes acquired as a result of market-making or other trading activities, you will deliver a prospectus in connection with any resale of such new notes.

Withdrawal of Tenders

Except as otherwise provided in this prospectus, you may withdraw your tender of old notes at any time before the expiration time, unless previously accepted for exchange.

For your withdrawal to be effective:

- the exchange agent must receive a written notice of withdrawal at its address set forth below under Exchange Agent before the expiration time, and prior to acceptance for exchange by us; or

you must comply with the appropriate procedures of DTC s automated tender offer program system.

Any notice of withdrawal must:

specify the name of the person who tendered the old notes to be withdrawn;

identify the old notes to be withdrawn, including the principal amount of the old notes;

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include a statement that such person is withdrawing its election to have its old notes exchanged; and

be signed in the same manner as the original signature on the letter of transmittal by which the old notes were tendered (including any required signature guarantees).

If old notes have been tendered pursuant to the procedure for book-entry transfer described above, any notice of withdrawal must specify the name and number of the account at DTC to be credited with the withdrawn old notes and otherwise comply with the procedures of DTC.

We will determine all questions as to the validity, form, eligibility and time of receipt of any notice of withdrawal, and our determination shall be final and binding on all parties. We will deem any old notes so withdrawn not to have been validly tendered for exchange for purposes of the exchange offer and no new notes will be issued with respect to them unless the old notes so withdrawn are validly retendered.

Any old notes that have been tendered for exchange but that are not exchanged for any reason will be returned to their holder without cost to the holder or, in the case of old notes tendered by book-entry transfer into the exchange agent s account at DTC according to the procedures described above, such old notes will be credited to an account maintained with DTC for the old notes. This return or crediting will take place promptly after withdrawal, rejection of tender or termination of the exchange offer. You may retender properly withdrawn old notes by following one of the procedures described under Procedures for Tendering Old Notes at any time before the expiration time.

Conditions to the Exchange Offer

Notwithstanding any other provisions of the exchange offer, or any extension of the exchange offer, we will not be required to accept for exchange, or to exchange, any old notes for any new notes, and, as described below, may terminate the exchange offer, whether or not any old notes have been accepted for exchange, or may waive any conditions to or amend the exchange offer, if any of the following conditions has occurred or exists:

there shall occur any change in the current interpretation by the staff of the SEC, which now permits the new notes issued pursuant to the exchange offer in exchange for old notes to be offered for resale, resold and otherwise transferred by the holders (other than broker-dealers and any holder which is an affiliate) without compliance with the registration and prospectus delivery requirements of the Securities Act, provided that such new notes are acquired in the ordinary course of such holders business and such holders have no arrangement or understanding with any person to participate in the distribution of the new notes;

any action or proceeding shall have been instituted or threatened in any court or by or before any governmental agency or body with respect to the exchange offer which, in our judgment, would reasonably be expected to impair our ability to proceed with the exchange offer;

any law, statute, rule or regulation shall have been adopted or enacted which, in our judgment, would reasonably be expected to impair our ability to proceed with the exchange offer;

a banking moratorium shall have been declared by United States federal or New York State authorities which, in our judgment, would reasonably be expected to impair our ability to proceed with the exchange offer;

trading on any national securities exchange or generally in the United States over-the-counter market shall have been suspended by order of the SEC or any other governmental authority which, in our judgment, would reasonably be expected to impair our ability to proceed with the exchange offer;

an attack on the United States, an outbreak or escalation of hostilities or acts of terrorism involving the United States, or any declaration by the United States of a national emergency or war shall have occurred;

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a stop order shall have been issued by the SEC or any state securities authority suspending the effectiveness of the registration statement of which this prospectus is a part or proceedings shall have been initiated or, to our knowledge, threatened for that purpose or any governmental approval shall not have been obtained, which approval we shall, in our sole discretion, deem necessary for the consummation of the exchange offer; or

any change, or any development involving a prospective change, in our business or financial affairs or any of our subsidiaries shall have occurred which is or may be adverse to us or we shall have become aware of facts that have or may have an adverse impact on the value of the old notes or the new notes, which in our sole judgment in any case makes it inadvisable to proceed with the exchange offer and/or with the acceptance for exchange or with the exchange.

If we determine in our sole discretion that any of the foregoing events or conditions has occurred or exists, we may, subject to applicable law, terminate the exchange offer, whether or not any old notes have been accepted for exchange, or may waive any such condition or otherwise amend the terms of the exchange offer in any respect. See Expiration Date and Time; Extensions; Termination; Amendments above.

These conditions to the exchange offer are for our sole benefit and may be asserted by us in our sole discretion regardless of the circumstances giving rise to any condition not being satisfied or may be waived by us, in whole or in part, at any time and from time to time in our sole discretion, other than regulatory approvals, which cannot be waived at any time. Our failure to exercise any of the foregoing rights at any time is not a waiver of any of these rights, and each of these rights will be an ongoing right, which may be asserted by us at any time and from time to time. We have not made a decision as to what circumstances would lead us to waive any condition, and any waiver would depend on circumstances prevailing at the time of that waiver. Any determination by us concerning the events described in this section shall be final and binding upon all persons.

Although we have no present plans or arrangements to do so, we reserve the right to amend, at any time, the terms of the exchange offer. We will give holders notice of any amendments if required by applicable law.

Consequences of Failure to Exchange

As a result of making the exchange offer, we will have fulfilled one of our obligations under the registration rights agreement. You will not have any further registration rights under the registration rights agreement or otherwise if you do not tender your old notes. Accordingly, if you do not exchange your old notes for new notes in the exchange offer, your old notes will remain outstanding and will continue to be subject to their existing terms, except to the extent of those rights or limitations that, by their terms, terminate or cease to have further effectiveness as a result of the exchange offer. Interest on the old notes will continue to accrue at the annual rate of 6.500%. Moreover, the old notes will continue to be subject to restrictions on transfer as set forth in the legend printed on the old notes as a consequence of the issuance of the old notes pursuant to exemptions from, or in transactions not subject to, the registration requirements of the Securities Act and applicable state securities laws.

In general, you may not offer or sell the old notes unless the offer and sale are either registered under the Securities Act or exempt from registration under the Securities Act and applicable state securities laws.

The trading market for old notes not exchanged in the exchange offer may be significantly more limited after the exchange offer. Therefore, if your old notes are not tendered and accepted in the exchange offer, it may become more difficult for you to sell or transfer your old notes. See Risk Factors Risks Relating to Continued Ownership of Old Notes.

The new notes will be issued as exchange notes under the same indenture that governs the old notes. The new notes and the old notes will constitute a single class of debt securities under that indenture. This means that, in circumstances where the indenture provides for holders of debt securities of any series issued under the indenture to vote or take any other action as a class, the holders of the old notes and the holders of the new notes will vote or take the action as a single class.

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Termination of Certain Rights

You will not be entitled to certain rights under the registration rights agreement following the completion of the exchange offer, including the right to receive additional interest if the registration statement of which this prospectus is a part is not declared effective by the SEC, or the exchange offer is not consummated, within specified time periods.

Exchange Agent

U.S. Bank National Association has been appointed as exchange agent for the exchange offer. You should direct questions and requests for assistance, requests for additional copies of this prospectus, the letter of transmittal or any other documents to the exchange agent. You should send certificates for old notes, letters of transmittal and any other required documents to the exchange agent addressed as follows:

By Mail, Hand or Overnight Courier:

U.S. Bank National Association

60 Livingstone Ave.

St. Paul, MN 55107

Delivery of any document to any other address or by any other means will not constitute valid delivery.

Fees and Expenses

We have agreed to pay the exchange agent such fees for its services as mutually agreed in writing and will reimburse it for its reasonable out-of-pocket expenses in connection with the exchange offer. We will also pay brokerage houses and other custodians, nominees and fiduciaries the reasonable out-of-pocket expenses incurred by them in forwarding copies of this prospectus and related documents to the beneficial owners of old notes, and in handling or tendering for their customers. We will not make any payment to brokers, dealers or others soliciting acceptances of the exchange offer.

Accounting Treatment

The new notes will be recorded at the same carrying value as the old notes, as reflected in our accounting records on the date of the exchange. Accordingly, we will not recognize any gain or loss for accounting purposes upon the completion of the exchange offer. The expenses of the exchange offer will be amortized over the term of the new notes.

Transfer Taxes

The holder of the old notes generally will not be obligated to pay transfer taxes applicable to the transfer and exchange of old notes pursuant to the exchange offer, other than as described in Instruction 9 to the letter of transmittal.

Other

Participation in the exchange offer is voluntary and you should carefully consider whether to accept. You are urged to consult your financial and tax advisors in making your decision on what action to take.

In the future, we may seek to acquire old notes in open market or privately negotiated transactions, through subsequent exchange offers or otherwise. We have no present plans to acquire any old notes that are not tendered in the exchange offer or to file a registration statement to permit resales of any old notes except to the extent that we may be required to do so under the registration rights agreement.

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USE OF PROCEEDS

We will not receive any cash proceeds from the issuance of the new notes. In consideration for issuing the new notes in exchange for old notes as described in this prospectus, we will receive old notes of like principal amount. The old notes surrendered in exchange for the new notes will be retired and canceled.

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DESCRIPTION OF NEW NOTES

General

The 6.500% Senior Subordinated Notes due 2020 in the aggregate principal amount of $425.0 million that the Company is offering to exchange pursuant to the exchange offer (and which are referred to as the old notes) were issued on May 24, 2013 under an indenture dated as of May 12, 2009 between Alere Inc., as issuer, and U.S. Bank National Association, as trustee (the Base Indenture), as supplemented by a supplemental indenture dated as of May 24, 2013 among Alere Inc., as issuer, the Guarantors named therein, as guarantors, and U.S. Bank National Association, as trustee (the Base Indenture, as so supplemented, the Indenture).

The new 6.500% Senior Subordinated Notes due 2020 in the aggregate principal amount of $425.0 million that the Company is offering in exchange for the old notes pursuant to the exchange offer (and which are referred to as the new notes) will be issued as exchange notes under the Indenture and will be treated as a single class with any old notes that remain outstanding following the completion of the exchange offer. The terms of the new notes will be identical to those of the old notes, except that the terms with respect to transfer restrictions, registration rights and payments of additional interest that relate to the old notes will be inapplicable to the new notes, and the new notes will bear a different CUSIP number than the old notes.

The following is a summary of the material provisions of the Indenture. It does not purport to be complete and does not restate the Indenture in its entirety. The terms of the new notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended. The new notes are subject to all those terms, and you should review the Indenture and the Trust Indenture Act because they, and not this description, will define your rights as a holder of new notes. A copy of the Indenture may be obtained as described above under Where You Can Find More Information.

You can find definitions of certain terms used in this description under the heading Certain Definitions. As used below in this Description of New Notes section, the Issuer means Alere Inc., a Delaware corporation, and its successors, but not any of its subsidiaries, and the Notes means the old notes, the new notes, any additional notes issued under the Indenture (which additional notes (Additional Notes) the Issuer is permitted to issue in an unlimited principal amount, subject to compliance with the covenant described under Certain Covenants Limitations on Additional Indebtedness below) and any exchange notes issued in connection with any exchange offer for any Additional Notes, and the Issue Date means May 24, 2013 (the date on which the old notes were issued), and not the date on which the new notes are issued.

This Description of New Notes section makes reference to our 9% senior subordinated notes due 2016, or our 9% senior subordinated notes, in the definition of 2009 Senior Subordinated Notes under the heading Certain Definitions and in related definitions and provisions. On May 24, 2013, we repurchased $190.6 million in aggregate principal amount of our 9% senior subordinated notes, and on June 24, 2013 we redeemed all of the remaining 9% senior subordinated notes then outstanding and subsequently terminated the indenture under which the 9% senior subordinated notes were issued (which is referred to in this section as the 2009 Senior Subordinated Notes Indenture).

Principal, Maturity and Interest

The Notes will mature on June 15, 2020. The Notes will bear interest at a rate of 6.500% per annum, payable semi-annually on June 15 and December 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), commencing on December 15, 2013, to holders of record at the close of business on the June 1 or December 1, as the case may be, immediately preceding the relevant interest payment date. Interest on the Notes will be computed on the basis of a 360-day year of twelve 30-day months. The Issuer will be required to pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal, premium and installments of interest, if any, from time to time on demand to the extent lawful at the interest rate applicable to the Notes.

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Each holder of old notes, upon exchanging them for new notes, will forgo any right to receive interest on the old notes (other than unpaid additional interest, if any, that accrued on the old notes due to the Issuer s failure to meet any of the filing, effectiveness or completion deadlines set forth in the registration rights agreement; see The Exchange Offer), including interest accrued but unpaid at the time of the exchange. However, interest on the new notes will accrue from the later of the Issue Date or the most recent date to which interest has been paid on the old notes (if any), rather than from the actual date of issuance of the new notes. Therefore, the interest payments to which a Holder will be entitled by virtue of its ownership of new notes will equal the interest payments to which such Holder would have been entitled under the old notes exchanged for such new notes pursuant to the exchange offer.

The Notes will be issued in registered form, without coupons, and in minimum denominations of $2,000 and integral multiples of $1,000.

An aggregate principal amount of Notes equal to $425,000,000 is being issued in this offering. Subject to compliance with the covenant described under Certain Covenants Limitations on Additional Indebtedness below, the Issuer may, without the consent of the Holders, create and issue Additional Notes in an unlimited principal amount having identical terms and conditions to the Notes being issued in this offering, other than with respect to the date of issuance, the offering price, the principal amount and the date of the first payment of interest thereon. Any Additional Notes will rank equally with the Notes being issued in this offering and will be treated as a single class for all purposes under the Indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase.

Methods of Receiving Payments on the Notes

If a Holder has given wire transfer instructions to the Issuer at least 10 Business Days prior to the applicable payment date, the Issuer will make all payments on such Holder s Notes by wire transfer of immediately available funds to the account specified in those instructions. Otherwise, payments on the Notes will be made at the office or agency of the paying agent (the Paying Agent) and registrar (the Registrar) for the Notes within the City and State of New York unless the Issuer elects to make interest payments by check mailed to the Holders at their addresses set forth in the register of Holders.

Ranking of the Notes and the Guarantees

The Notes will be:

general senior subordinated unsecured obligations of the Issuer;

junior in right of payment to all existing and future senior indebtedness of the Issuer, including (i) indebtedness arising under the Credit Facilities and (ii) indebtedness arising under the Senior Notes; see Subordination of the Notes below;

pari passu in right of payment with all existing and future senior subordinated indebtedness of the Issuer, including (i) indebtedness arising under the Existing Senior Subordinated Notes and any indebtedness of the Issuer that expressly provides that it ranks *pari passu* in right of payment with any of the Existing Senior Subordinated Notes and (ii) indebtedness arising under the 2007 Convertible Notes and any indebtedness of the Issuer that expressly provides that it ranks *pari passu* in right of payment with the 2007 Convertible Notes;

senior in right of payment to any existing or future indebtedness of the Issuer that is, by its terms, subordinated in right of payment to the Notes;

unconditionally guaranteed by the Guarantors; see Guarantees of the Notes below;

effectively subordinated to all existing and future secured indebtedness of the Issuer, including indebtedness arising under the secured Credit Facilities, to the extent of the value of the assets securing such indebtedness; and

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structurally subordinated to all existing and future obligations of each of the Issuer s Subsidiaries that is not a Guarantor.

Each Guarantee will be:

a general senior subordinated unsecured obligation of the Guarantor thereunder;

junior in right of payment to all existing and future senior indebtedness of that Guarantor, including (i) indebtedness arising under that Guarantor s guarantee with respect to the Credit Facilities and (ii) indebtedness arising under that Guarantor s guarantee of the Issuer s obligations under the Senior Notes; see Subordination of the Guarantees of the Notes below;

pari passu in right of payment with any existing or future senior subordinated indebtedness of that Guarantor, including that Guarantor s guarantee of the Issuer s obligations under the Existing Senior Subordinated Notes and any indebtedness of that Guarantor that expressly provides that it ranks *pari passu* in right of payment with any such guarantee;

senior in right of payment to any existing or future indebtedness of that Guarantor that is, by its terms, subordinated in right of payment to the Guarantee of that Guarantor;

effectively subordinated to all existing and future secured indebtedness of that Guarantor, including indebtedness arising under the secured Credit Facilities, to the extent of the value of the assets securing such indebtedness; and

structurally subordinated to all existing and future obligations of each Subsidiary of that Guarantor that is not also a Guarantor.

Subordination of the Notes

The payment of all Obligations owing to the Holders in respect of the Notes will be subordinated in right of payment to the prior payment in full in cash of all Senior Debt (including all Obligations under any Credit Facility (including any Credit Agreement) and all Obligations under the Senior Notes), whether outstanding on the Issue Date or incurred after that date.

The Notes shall in all respects rank *pari passu* in right of payment with (i) the Existing Senior Subordinated Notes and any Indebtedness of the Issuer that expressly provides that it ranks *pari passu* in right of payment with any of the Existing Senior Subordinated Notes and (ii) the 2007 Convertible Notes and any Indebtedness of the Issuer that expressly provides that it ranks *pari passu* in right of payment with the 2007 Convertible Notes, and only Indebtedness of the Issuer which is Senior Debt shall rank senior to the Notes in accordance with the provisions of the Indenture.

The holders of Senior Debt will be entitled to receive payment in full in cash of all Obligations due on all Senior Debt (including interest accruing after the commencement of any bankruptcy or other like proceeding at the rate specified in any Credit Facility (including any Credit Agreement) or in the Senior Notes, as applicable, whether or not such interest is an allowed claim in any such proceeding) before the Holders of Notes will be entitled to receive any payment or distribution of any kind or character made on account of any Obligations on or relating to the Notes (other than Permitted Junior Securities) in the event of any payment or distribution of assets of the Issuer of any kind or character, whether in cash, assets or securities, to creditors:

in any total or partial liquidation, dissolution or winding-up of the Issuer;

in a bankruptcy, reorganization, insolvency, receivership or other similar proceeding relating to the Issuer or its assets (whether voluntary or involuntary);

in any assignment for the benefit of creditors; or

in any marshalling of the Issuer s assets and liabilities.

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In addition, the Issuer may not make any payment or distribution of any kind or character with respect to any Obligations on or relating to the Notes or acquire any of the Notes for cash or assets or otherwise (other than, in either case, Permitted Junior Securities) if:

- any payment default on any Designated Senior Debt occurs and is continuing; or
- any other event of default occurs and is continuing on any Designated Senior Debt that permits the holders of such Designated Senior Debt to accelerate its maturity (a non-payment default) and the Trustee receives a notice of such default (a Payment Blockage Notice) from the Representative of such Designated Senior Debt (including, as applicable, the administrative agent under any Credit Facility (including any Credit Agreement)).

Payments on and distributions with respect to any Obligations on or with respect to the Notes may and shall be resumed:

- in the case of a payment default, upon the date on which all payment defaults are cured or waived (so long as no other event of default exists); and
- in case of a non-payment default, on the earliest of (1) the date on which all such non-payment defaults are cured or waived, (2) 179 days after the date on which the applicable Payment Blockage Notice is received or (3) the date on which the Trustee receives notice from the Representative for such Designated Senior Debt rescinding the Payment Blockage Notice, unless, in each case, the maturity of any Designated Senior Debt has been accelerated.

No new Payment Blockage Notice may be delivered unless and until 360 days have elapsed since the effectiveness of the immediately prior Payment Blockage Notice.

No non-payment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the Trustee shall be, or be made, the basis for a subsequent Payment Blockage Notice, unless such non-payment default shall have been cured or waived for a period of not less than 90 consecutive days. Any subsequent action, or any breach of any financial covenants for a period ending after the date of delivery of the initial Payment Blockage Notice that, in either case, would give rise to a non-payment default pursuant to any provisions under which a non-payment default previously existed or was continuing will constitute a new non-payment default for this purpose.

Notwithstanding anything to the contrary, payments and distributions (i) of Permitted Junior Securities and (ii) made from the trust established pursuant to the provisions described under Legal Defeasance and Covenant Defeasance will be permitted and will not be subordinated so long as, with respect to clause (ii), the payments into the trust were made in accordance with the requirements described under Legal Defeasance and Covenant Defeasance and did not violate the subordination provisions when they were made.

The Issuer must promptly notify the holders of Senior Debt and Guarantor Senior Debt if payment of the Notes is accelerated because of an Event of Default.

As a result of the subordination provisions described above, in the event of a bankruptcy, liquidation or reorganization of the Issuer, Holders of the Notes may recover less ratably than creditors of the Issuer who are holders of Senior Debt. See Risk Factors Risks Relating to Our Debt, Including the New Notes Your right to receive payments on the new notes and the related guarantees is subordinated to our and our guarantor subsidiaries senior debt.

As of June 30, 2013, the Issuer and its Restricted Subsidiaries had approximately $2.9 billion in aggregate principal amount of Senior Debt outstanding and approximately $2.4 billion in aggregate principal amount of secured indebtedness outstanding, substantially all of which was outstanding under the Credit Agreement.

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Guarantees of the Notes

The Issuer s obligations under the Notes and the Indenture will be jointly and severally guaranteed by each Restricted Subsidiary that is a Domestic Subsidiary that guarantees any Indebtedness or other Obligation under any Credit Agreement; *provided, however,* that SPDH, Inc. shall not be a Guarantor unless the Issuer so elects.

Not all of the Issuer s Subsidiaries will guarantee the Notes. Unrestricted Subsidiaries, Foreign Subsidiaries, the Subsidiary named above, and Domestic Subsidiaries that do not guarantee any Indebtedness or other Obligation under the Credit Agreements will not be Guarantors. In the event of a bankruptcy, liquidation or reorganization of any of these non-guarantor Subsidiaries, these non-guarantor Subsidiaries will pay the holders of their debts and their trade creditors before they will be able to distribute any of their assets to us.

For the fiscal year ended December 31, 2012, the Issuer s non-guarantor Subsidiaries had net revenues of approximately $1.3 billion, or approximately 45% of the Company s consolidated net revenues for that period, and operating income of approximately $14.2 million, or approximately 13% of the Company s consolidated operating income for that period. For the six months ended June 30, 2013, the Issuer s non-guarantor subsidiaries had net revenues of approximately $735.0 million, or approximately 49% of the Company s consolidated net revenues for that period, and operating income of approximately $58.7 million, or approximately 78% of the Company s consolidated operating income for that period. As of June 30, 2013, the Issuer s non-guarantor subsidiaries had assets of approximately $3.4 billion, or approximately 48% of the Company s consolidated assets. In addition, as of June 30, 2013, the Issuer s non-guarantor subsidiaries had total indebtedness and other liabilities of approximately $584.7 million, including trade payables but excluding intercompany liabilities. The foregoing information as of and for the year ended December 31, 2012, and as of and for the six months ended June 30, 2013, does not give pro forma effect to any acquisition the Company has made since such dates. For additional information, see note 24 of the notes to the Company s audited consolidated financial statements incorporated by reference in this offer to exchange, note 19 to the Company s unaudited consolidated financial statements incorporated by reference in this offer to exchange and Risk Factors Risks Relating to Our Debt, Including the New Notes under the subheadings The new notes and the related guarantees are not secured by our assets or those of our guarantor subsidiaries and Your right to receive payment on the new notes will be structurally subordinated to the obligations of our non-guarantor subsidiaries.

Under the circumstances described below under the subheading Certain Covenants Limitations on Designation of Unrestricted Subsidiaries, the Issuer will be permitted to designate some of its Subsidiaries as Unrestricted Subsidiaries. On the Issue Date, no Subsidiary will be an Unrestricted Subsidiary and all Subsidiaries of the Issuer will be Restricted Subsidiaries. The effect of designating a Subsidiary as an Unrestricted Subsidiary will be:

- an Unrestricted Subsidiary will not be subject to many of the restrictive covenants in the Indenture;
- a Subsidiary that has previously been a Guarantor and that is designated an Unrestricted Subsidiary will be released from its Guarantee; and
- the assets, income, cash flow and other financial results of an Unrestricted Subsidiary will not be consolidated with those of the Issuer for purposes of calculating compliance with the restrictive covenants contained in the Indenture, except for income of the Unrestricted Subsidiary to the extent any such income has actually been received by the Issuer or any of its Wholly-Owned Restricted Subsidiaries.

The Obligations of each Guarantor under its Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor (including any guarantees under any Credit Facility (including any Credit Agreement) permitted under clause (1) of Certain Covenants Limitations on Additional Indebtedness and including such Guarantor s guarantees of the Issuer s obligations under the Senior Notes, the Senior Notes Indenture, the Existing Senior Subordinated Notes and the Existing Senior Subordinated Notes Indentures) and after giving effect to any collections from or payments made by or on

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behalf of any other Guarantor in respect of the Obligations of such other Guarantor under its Guarantee or pursuant to its contribution obligations under the Indenture, result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law. Each Guarantor that makes a payment for distribution under its Guarantee is entitled to a contribution from each other Guarantor in a *pro rata* amount based on adjusted net assets of each Guarantor.

A Guarantor shall be released from its obligations under its Guarantee and the Indenture:

(1) in the event of a sale or other disposition of all or substantially all of the assets of such Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all of the Equity Interests of such Guarantor then held by the Issuer and the Restricted Subsidiaries;

(2) if such Guarantor is designated as an Unrestricted Subsidiary or otherwise ceases to be a Restricted Subsidiary, in each case in accordance with the provisions of the Indenture, upon effectiveness of such designation or when it first ceases to be a Restricted Subsidiary, respectively; or

(3) if such Guarantor does not guarantee any Indebtedness or other Obligation under any Credit Agreement (other than if such Guarantor no longer guarantees any Indebtedness or other Obligation under such Credit Agreement as a result of payment under any guarantee of any such Indebtedness or other Obligation by such Guarantor); *provided*, *however*, that a Guarantor shall not be permitted to be released from its Guarantee or the Indenture if it is an obligor with respect to any Indebtedness or other Obligation that would not, under Certain Covenants Limitations on Additional Indebtedness, be permitted to be incurred by a Restricted Subsidiary that is not a Guarantor.

The Issuer is currently in the process of reducing the total number of its subsidiaries through statutory mergers and other procedures. As part of that process, the Issuer currently intends to cause each of Ionian Technologies, Inc. and Standing Stone, Inc., both of which are Delaware corporations and Guarantors, to be merged into Alere Health Improvement Company, also a Delaware corporation and a Guarantor. Based on the Issuer s current plans, the mergers are expected to occur during the pendency of the exchange offer, although one or both mergers could occur after the expiration of the exchange offer or not at all. Upon the consummation of each merger, the Guarantee of the merged entity will be extinguished, Alere Health Improvement Company will acquire and assume all of the assets and liabilities of the merged entity, and Alere Health Improvement Company s Guarantee will continue without modification. The consummation of either or both of these mergers would not require any modification to the financial information included or incorporated by reference in this prospectus. As described in this Description of Notes, the terms of the Indenture permit specified mergers and other transactions involving the Issuer and the Guarantors, and the Issuer and the Guarantors may engage in such transactions during the pendency of the exchange offer.

Subordination of the Guarantees of the Notes

Each Guarantee will be subordinated to the Guarantor Senior Debt on the same basis as the Notes are subordinated to Senior Debt. See Subordination of the Notes above.

Redemption

Optional Redemption

Except as set forth below, the Notes may not be redeemed at the Issuer s option prior to June 15, 2016. At any time on or after June 15, 2016, the Issuer, at its option, may redeem the Notes, in whole or in part, upon not less than 30 nor more than 60 days notice, at the redemption prices (expressed as percentages of principal amount) set forth below, together with accrued and unpaid interest thereon, if any, to but excluding the redemption date, if redeemed during the corresponding period set forth below:

Year		Optional Redemption Price
June 15, 2016	June 14, 2017	103.250%
June 15, 2017	June 14, 2018	101.625%

June 15, 2018 and thereafter	100.000%

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Optional Redemption Prior to May 24, 2015

At any time during any period consisting of 12 consecutive months ending on the day immediately preceding the first or second anniversary of the Issue Date, the Company may redeem a portion of the Notes, upon not less than 30 nor more than 60 days notice, at a redemption price of 103% of the principal amount thereof, plus accrued and unpaid interest thereon, if any, to but excluding the date of redemption; *provided*, that the maximum aggregate principal amount of the Notes that may be redeemed during any such 12 consecutive month period shall not exceed 10% of the aggregate principal amount of Notes originally issued under the Indenture.

Redemption with Proceeds from Equity Offerings

At any time prior to June 15, 2016, the Issuer may redeem up to 35% of the aggregate principal amount of the Notes with the net cash proceeds of one or more Qualified Equity Offerings at a redemption price equal to 106.500% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest thereon, if any, to but excluding the date of redemption; *provided*, *however*, that (1) at least 65% of the aggregate principal amount of Notes issued under the Indenture remains outstanding immediately after the occurrence of such redemption and (2) the redemption occurs within 90 days of the date of the closing of any such Qualified Equity Offering.

Make-whole Redemption

At any time prior to June 15, 2016, the Issuer may redeem all or a part of the Notes, upon not less than 30 nor more than 60 days notice, at a redemption price equal to 100% of the principal amount (or portion thereof) of the Notes to be redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to but excluding, the date of redemption.

Mandatory Redemption

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

Other Acquisitions of Notes

The Issuer may acquire Notes by means other than a redemption, whether pursuant to an issuer tender offer, open market purchase or otherwise, in accordance with applicable securities laws, so long as the acquisition does not otherwise violate the terms of the Indenture.

Selection and Notice of Redemption

In the event that less than all of the Notes are to be redeemed at any time pursuant to an optional redemption, a redemption with proceeds from Qualified Equity Offerings or a make-whole redemption, selection of the Notes for redemption will be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed or, if the Notes are not then listed on a national security exchange, on a *pro rata* basis (if the Notes are issued in physical form), or in accordance with applicable DTC procedures (if the Notes are issued in global form); *provided*, *however*, partial redemption of Notes of any Holder may only be made of principal equal to $1,000 or integral multiples thereof (*provided*, *however*, that no Note will be purchased in part if such Note would have a remaining principal amount of less than $2,000). In addition, if a partial redemption is made pursuant to the provisions described in Redemption Redemption with Proceeds from Equity Offerings, selection of the Notes or portions thereof for redemption will be made by the Trustee only on a *pro rata* basis or on as nearly a *pro rata* basis as is practicable (subject to the procedures of the Depository), unless that method is otherwise prohibited.

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Notice of redemption will be mailed by first-class mail, postage prepaid, at least 30 but not more than 60 days before the date of redemption to each Holder of Notes to be redeemed at the Holder s registered address, except that redemption notices may be mailed more than 60 days prior to the applicable redemption date if the notice is issued in connection with a satisfaction and discharge of the Indenture. The notice, if given in the manner provided above and in the Indenture, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. If any Note is to be redeemed in part only, the notice of redemption that relates to that Note will state the portion of the principal amount of the Note to be redeemed. A new Note in a principal amount equal to the unredeemed portion of the Note will be issued in the name of the Holder of the Note upon cancellation of the original Note. On and after the date of redemption, interest will cease to accrue on Notes or portions thereof called for redemption so long as the Issuer has deposited with the paying agent for the Notes funds in satisfaction of the redemption price (including accrued and unpaid interest, if any, on the Notes to be redeemed) pursuant to the Indenture.

Change of Control

Upon the occurrence of any Change of Control, each Holder will have the right to require that the Issuer purchase all or any part (equal to $1,000 or an integral multiple thereof (*provided*, *however*, that no Note will be purchased in part if such Note would have a remaining principal amount of less than $2,000)) of that Holder s Notes for a cash price (the Change of Control Purchase Price) equal to 101% of the principal amount of the Notes to be purchased, plus accrued and unpaid interest thereon, if any, to but excluding the date of purchase.

Within 30 days following any Change of Control, the Issuer will mail, or cause to be mailed, to the Holders a notice:

(1) describing the transaction or transactions that constitute the Change of Control;

(2) offering to purchase, pursuant to the procedures required by the Indenture and described in the notice (a Change of Control Offer), on a date specified in the notice (which shall be a Business Day not earlier than 30 days nor later than 60 days from the date the notice is mailed) and for the Change of Control Purchase Price, all Notes properly tendered by such Holder pursuant to such Change of Control Offer; and

(3) describing the procedures that Holders must follow to accept the Change of Control Offer.

The Change of Control Offer is required to remain open for at least 20 Business Days or for such longer period as is required by law.

The Issuer will publicly announce the results of the Change of Control Offer on or as soon as practicable after the date of purchase.

In the event that at the time of such Change of Control the terms of the Indebtedness under any Credit Agreement restrict or prohibit the purchasing of the Notes upon a Change of Control, then prior to mailing the notice described above to the Holders, but in any event within 30 days following any Change of Control, the Issuer must either repay in full the Indebtedness and terminate all commitments under the Credit Agreement that contains the prohibition or obtain the requisite consent of the applicable lenders to permit the purchase of Notes. The Issuer shall first comply with the covenant in the immediately preceding sentence before it shall be required to repurchase Notes upon a Change of Control or to send the notice pursuant to the provisions described above. The Issuer s failure to comply with the covenant described in the second preceding sentence (and any failure to send the notice described above to the Holders because the same is prohibited by the second preceding sentence) may (with notice and lapse of time) constitute an Event of Default described in clause (3) of the definition of Event of Default below but shall not constitute an Event of Default described in clause (2) of the definition of Event of Default below.

The Issuer s existing Credit Agreement provides that some change of control events with respect to the Issuer, including a Change of Control as defined in the Indenture, would constitute a default under this Credit

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Agreement, and it prohibits the Issuer from purchasing any Notes upon any such change of control event. Any future Credit Agreements or other agreements relating to Senior Debt to which the Issuer becomes a party may contain similar restrictions and provisions. In the event a Change of Control occurs at a time when the Issuer is prohibited from purchasing Notes, if the Issuer does not obtain all required consents of its senior lenders to purchase the Notes or repay or refinance the borrowings that contain the prohibition, the Issuer will remain prohibited from purchasing Notes. In that case, the Issuer s failure to obtain such consents or repay or refinance such borrowings so that the Issuer may purchase the Notes would constitute an Event of Default under the Indenture, which would, in turn, constitute a default under the Credit Agreements and any such other Senior Debt. In these circumstances, the subordination provisions in the Indenture would likely restrict payments to the Holders of the Notes.

The provisions described above that require the Issuer to make a Change of Control Offer following a Change of Control will be applicable regardless of whether any other provisions of the Indenture are applicable. Except as described above with respect to a Change of Control, the Indenture does not contain provisions that permit the Holders to require that the Issuer purchase or redeem the Notes in the event of a takeover, recapitalization or similar transaction.

The Issuer s obligation to make a Change of Control Offer will be satisfied if a third party makes the Change of Control Offer in the manner and at the times and otherwise in compliance with the requirements applicable to a Change of Control Offer made by the Issuer and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer.

The definition of Change of Control under the Indenture contains important exceptions for certain types of transactions. The occurrence of transactions within these exceptions would not constitute a Change of Control for purposes of the Indenture, and would therefore not trigger the Holders right to require the Issuer to purchase Notes as set forth above. The definition of Change of Control is set forth below under Certain Definitions.

With respect to any disposition of assets, the phrase all or substantially all as used in the Indenture (including as set forth under Certain Covenants Limitations on Mergers, Consolidations, Etc. below) varies according to the facts and circumstances of the subject transaction, has no clearly established meaning under New York law (which governs the Indenture) and is subject to judicial interpretation. Accordingly, in certain circumstances there may be a degree of uncertainty in ascertaining whether a particular transaction would involve a disposition of all or substantially all of the assets of the Issuer, and therefore it may be unclear as to whether a Change of Control has occurred and whether the Holders have the right to require the Issuer to purchase Notes.

The Issuer will comply with applicable tender offer rules, including the requirements of Rule 14e-1 under the Exchange Act and any other applicable laws and regulations in connection with the purchase of Notes pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of the Indenture, the Issuer shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the Indenture by virtue of this compliance.

Certain Covenants

The Indenture contains, among others, the following covenants:

Limitations on Additional Indebtedness

The Issuer will not, and will not permit any Restricted Subsidiary to, directly or indirectly, incur any Indebtedness; *provided*, *however*, that the Issuer or any Restricted Subsidiary may incur additional Indebtedness, and the Issuer or any Restricted Subsidiary may incur Acquired Indebtedness, if, after giving effect thereto, the Consolidated Interest Coverage Ratio would be at least 2.00 to 1.00 (the Coverage Ratio Exception).

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Notwithstanding the above, each of the following will be permitted to be incurred (the Permitted Indebtedness):

(1) Indebtedness of the Issuer or any Restricted Subsidiary under any Credit Facility (including any Credit Agreement) (including the issuance or creation of letters of credit and bankers acceptances thereunder) so long as the aggregate amount of all Indebtedness of the Issuer and its Restricted Subsidiaries (without duplication) at any time outstanding under all Credit Facilities (including all Credit Agreements) (excluding Hedging Obligations related to the Indebtedness thereunder) does not exceed the greater of (x) $2.8 billion, *less* the aggregate amount of Net Available Proceeds applied to repayments under any Credit Facility (including any Credit Agreement) in accordance with the covenant described under Limitations on Asset Sales, and (y) 85% of the book value of the accounts receivable of the Issuer and the Restricted Subsidiaries *plus* 65% of the book value of inventory of the Issuer and the Restricted Subsidiaries, in each case calculated on a consolidated basis and in accordance with GAAP as of the last day of the last full fiscal quarter for which financial statements are available;

(2) the Notes issued on the Issue Date and the related Guarantees, and the exchange notes and the related guarantees in respect thereof to be issued pursuant to the exchange offer;

(3) Indebtedness of the Issuer and the Restricted Subsidiaries to the extent outstanding on the Issue Date (other than Indebtedness referred to in clauses (1) and (2) above);

(4) Indebtedness of the Issuer or any Restricted Subsidiary under Hedging Obligations (i) entered into for *bona fide* purposes of hedging against fluctuations in interest rates with respect to Indebtedness under any Credit Facility (including any Credit Agreement) or (ii) entered into in the ordinary course of business for *bona fide* hedging purposes and not for the purpose of speculation that are designed to protect against fluctuations in interest rates, foreign currency exchange rates and commodity prices, *provided* that if, in the case of either (i) or (ii), such Hedging Obligations are of the type described in clause (1) of the definition thereof, (a) such Hedging Obligations relate to payment obligations on Indebtedness otherwise permitted to be incurred by this covenant, and (b) the notional principal amount of such Hedging Obligations at the time incurred does not exceed the principal amount of the Indebtedness to which such Hedging Obligations relate;

(5) Indebtedness of the Issuer owed to a Restricted Subsidiary and Indebtedness of any Restricted Subsidiary owed to the Issuer or any other Restricted Subsidiary, *provided* that upon any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or such Indebtedness being owed to any Person other than the Issuer or a Restricted Subsidiary, the Issuer or such Restricted Subsidiary, as applicable, shall be deemed to have incurred Indebtedness not permitted by this clause (5);

(6) (i) Indebtedness in respect of bid, performance or surety bonds issued for the account of the Issuer or any Restricted Subsidiary in the ordinary course of business, including guarantees or obligations of the Issuer or any Restricted Subsidiary with respect to letters of credit supporting such bid, performance or surety obligations (in each case other than for an obligation for money borrowed), and (ii) Indebtedness of the Issuer or any Restricted Subsidiary consisting of reimbursement obligations with respect to commercial letters of credit and letters of credit issued to landlords, in each case in the ordinary course of business in an aggregate face amount not to exceed $10.0 million at any time;

(7) Purchase Money Indebtedness incurred by the Issuer or any Restricted Subsidiary, and Refinancing Indebtedness with respect thereto, in an aggregate outstanding amount not to exceed $50.0 million at any time;

(8) Indebtedness of the Issuer or any Restricted Subsidiary arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business, *provided* that such Indebtedness is extinguished within five Business Days of incurrence;

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(9) Indebtedness of the Issuer or any Restricted Subsidiary arising in connection with endorsement of instruments for deposit in the ordinary course of business;

(10) (i) Capitalized Lease Obligations arising under Sale and Leaseback Transactions with respect to any of the real property currently owned by Biosite Incorporated or any of its Restricted Subsidiaries in San Diego, California or San Clemente, California, and Refinancing Indebtedness with respect thereto, in an aggregate outstanding amount for all such transactions under this clause (i) not to exceed $150.0 million at any time and (ii) Capitalized Lease Obligations arising under any other Sale and Leaseback Transactions, and Refinancing Indebtedness with respect thereto, in an aggregate outstanding amount for all such transactions under this clause (ii) not to exceed $50.0 million at any time;

(11) guarantee Obligations of the Issuer or any of its Restricted Subsidiaries with respect to Indebtedness of the Issuer or any of its Restricted Subsidiaries;

(12) (i) Indebtedness incurred by the Issuer or any Restricted Subsidiary for the purpose of financing all or any part of the cost of, or in order to consummate, the acquisition of (x) Equity Interests of another Person engaged in the Permitted Business that becomes a Restricted Subsidiary, (y) all or substantially all of the assets of such a Person or a line of business, division or business unit within the Permitted Business by the Issuer or a Restricted Subsidiary, or (z) any other Permitted Business assets by the Issuer or a Restricted Subsidiary and (ii) Acquired Indebtedness incurred by the Issuer or any Restricted Subsidiary in connection with an acquisition by the Issuer or a Restricted Subsidiary; *provided*, *however*, that, in each of the foregoing cases, on the date of the incurrence of such Indebtedness or Acquired Indebtedness, after giving effect to the incurrence thereof and the use of any proceeds therefrom and otherwise determined on a *pro forma* basis for such transaction in accordance with the provisions set forth in the definition of Consolidated Interest Coverage Ratio in Certain Definitions below, either:

(a) the Issuer would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Coverage Ratio Exception, or

(b) the Consolidated Interest Coverage Ratio would be greater than the Consolidated Interest Coverage Ratio immediately prior to the incurrence of such Indebtedness;

(13) guarantees by the Issuer or any of its Restricted Subsidiaries of the performance by any Restricted Subsidiary of its obligations under the P&G JV Agreements or the joint venture agreement or other related agreements, instruments or documents relating to any other joint venture entered into by the Issuer of any of its Restricted Subsidiaries in compliance with the Indenture (for the avoidance of doubt this clause shall not be read to allow guarantees of Indebtedness of any joint venture or joint venture partner or their Affiliates);

(14) Refinancing Indebtedness incurred by the Issuer or any Restricted Subsidiary with respect to Indebtedness incurred pursuant to the Coverage Ratio Exception or clause (2), (3) or (12) or this clause (14) in this covenant;

(15) Indebtedness of any Foreign Subsidiary or of any Domestic Subsidiary that is not a Guarantor in an aggregate outstanding principal amount for all such Indebtedness at any time not to exceed $50.0 million; and

(16) any other Indebtedness of the Issuer or any Restricted Subsidiary in an aggregate outstanding principal amount for all such Indebtedness not to exceed $50.0 million at any time.

For purposes of determining compliance with this covenant, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Permitted Indebtedness described in clauses (1) through (16) above or is entitled to be incurred pursuant to the Coverage Ratio Exception, the Issuer shall, in its sole discretion, classify such item of Indebtedness and may divide and classify (and may later redivide and

reclassify) such Indebtedness in more than one of the types of Indebtedness described in this covenant in any manner that complies with this covenant, except that Indebtedness incurred under the Credit Agreement on the Issue Date shall be deemed to have

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been incurred under clause (1) above. Any item of Indebtedness entitled to be incurred pursuant to the Coverage Ratio Exception and classified by the Issuer within such type of Indebtedness shall retain such classification (and the amount thereof shall not be counted in the determination of the amount of Indebtedness under any of clauses (1) through (16) of this covenant notwithstanding that the Coverage Ratio Exception is not available at any later time). In addition, for purposes of determining any particular amount of Indebtedness under this covenant or any category of Permitted Indebtedness, guarantees, Liens, letter of credit obligations or other obligations supporting Indebtedness otherwise included in the determination of such particular amount shall not be included so long as incurred by a Person that could have incurred such Indebtedness.

The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms and the payment of dividends on Disqualified Equity Interests of the Issuer in the form of additional shares of the same class of Disqualified Equity Interest (or in the form of Qualified Equity Interests) will not be deemed to be an incurrence of Indebtedness for purposes of this covenant.

Limitations on Layering Indebtedness

The Issuer will not, and will not permit any Restricted Subsidiary to, directly or indirectly, incur any Indebtedness that by its terms (or by the terms of any agreement governing such Indebtedness) is or purports to be senior in right of payment to the Notes or the Guarantee, if any, of such Restricted Subsidiary and subordinated in right of payment to any other Indebtedness of the Issuer or such Restricted Subsidiary, as the case may be.

For purposes of the foregoing, no Indebtedness will be deemed to be subordinated in right of payment to any other Indebtedness of the Issuer or any Restricted Subsidiary solely by virtue of being unsecured or by virtue of the fact that the holders of such Indebtedness have entered into intercreditor agreements or other arrangements giving one or more of such holders priority over the other holders in the collateral held by them or by virtue of structural subordination.

Limitations on Restricted Payments

The Issuer will not, and will not permit any Restricted Subsidiary to, directly or indirectly, make any Restricted Payment if at the time of such Restricted Payment:

(1) a Default shall have occurred and be continuing or shall occur as a consequence thereof;

(2) the Issuer cannot incur $1.00 of additional Indebtedness pursuant to the Coverage Ratio Exception; or

(3) the amount of such Restricted Payment, when added to the aggregate amount of all other Restricted Payments made after May 12, 2009 (other than Restricted Payments made pursuant to clauses (2) through (7), (8) (with respect to non-cash dividends only), (10), (11) and (12) of the next paragraph), exceeds the sum (the Restricted Payments Basket) of (without duplication):

(a) 50% of Consolidated Net Income for the period (taken as one accounting period) commencing on the first day of the first full fiscal quarter commencing after May 12, 2009 to and including the last day of the fiscal quarter ended immediately prior to the date of such calculation for which consolidated financial statements are available (or, if such Consolidated Net Income shall be a deficit, minus 100% of such aggregate deficit), plus

(b) 100% of the aggregate net proceeds, including cash and the Fair Market Value of the equity of a Person or of assets used in or constituting a line of business, in each case which becomes or becomes owned by a Restricted Subsidiary, received by the Issuer from the issuance and sale of Qualified Equity Interests after May 12, 2009, other than any such proceeds which are used to redeem Notes in accordance with the second paragraph under Redemption Redemption with Proceeds from Equity Offerings, *provided* that the Issuer delivers to the Trustee:

(x) with respect to any equity or assets with a Fair Market Value in excess of $15.0 million, an Officers Certificate setting forth such Fair Market Value and a Secretary s Certificate which

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sets forth and authenticates a resolution that has been adopted by a majority of the Independent Directors approving such Fair Market Value; and

(y) with respect to any equity or assets with a Fair Market Value in excess of $50.0 million, the certificates described in the preceding clause (x) and a written opinion as to the Fair Market Value of such equity or assets received by the Issuer from the issuance and sale of such Qualified Equity Interests to the Issuer issued by an Independent Financial Advisor (which opinion may be in the form of a fairness opinion with respect to the transaction in which the equity or assets are acquired), *plus*

(c) 100% of the aggregate net cash proceeds received by the Issuer as contributions to the common or preferred equity (other than Disqualified Equity Interests) of the Issuer after May 12, 2009, other than any such proceeds which are used to redeem Notes in accordance with the second paragraph under Redemption Redemption with Proceeds from Equity Offerings, *plus*

(d) the aggregate amount by which Indebtedness incurred by the Issuer or any Restricted Subsidiary subsequent to May 12, 2009 is reduced on the Issuer s balance sheet upon the conversion or exchange (other than by a Subsidiary of the Issuer) of Indebtedness into Qualified Equity Interests (less the amount of any cash, or the fair value of assets, distributed by the Issuer or any Restricted Subsidiary upon such conversion or exchange), plus

(e) in the case of the disposition or repayment of or return on any Investment that was treated as a Restricted Payment made after May 12, 2009, an amount (to the extent not included in the computation of Consolidated Net Income) equal to the lesser of (i) the return of capital with respect to such Investment and (ii) the amount of such Investment that was treated as a Restricted Payment, in either case, less the cost of the disposition of such Investment and net of taxes, *plus*

(f) upon a Redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary, the lesser of (i) the Fair Market Value of the Issuer s proportionate interest in such Subsidiary immediately following such Redesignation, and (ii) the aggregate amount of the Issuer s Investments in such Subsidiary to the extent such Investments reduced the Restricted Payments Basket and were not previously repaid or otherwise reduced.

The foregoing provisions will not prohibit:

(1) the payment by the Issuer or any Restricted Subsidiary of any dividend within 60 days after the date of declaration thereof, if on the date of declaration the payment would have complied with the provisions of the Indenture;

(2) the redemption of any Equity Interests of the Issuer or any Restricted Subsidiary in exchange for, or out of the proceeds of the substantially concurrent issuance and sale of, Qualified Equity Interests (and any payment of cash in lieu of delivering fractional shares in connection therewith);

(3) the redemption of Subordinated Indebtedness of the Issuer or any Restricted Subsidiary (a) in exchange for, or out of the proceeds of the substantially concurrent issuance and sale of, Qualified Equity Interests (and any payment of cash in lieu of delivering fractional shares in connection therewith) or (b) in exchange for, or out of the proceeds of the substantially concurrent incurrence of, Refinancing Indebtedness permitted to be incurred under the Limitations on Additional Indebtedness covenant and the other terms of the Indenture;

(4) the redemption of Equity Interests of the Issuer held by officers, directors or employees or former officers, directors or employees (or their transferees, estates or beneficiaries under their estates) upon their death, disability, retirement, severance or termination of

employment or service; *provided*, *however*, that the aggregate cash consideration paid for all such redemptions shall not exceed $10.0 million during any calendar year;

(5) repurchases of Equity Interests deemed to occur upon the exercise of stock options or warrants if the Equity Interests represents a portion of the exercise price thereof;

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(6) the redemption of any Indebtedness of the Issuer or any Restricted Subsidiary owing to any Restricted Subsidiary or the Issuer;

(7) upon the occurrence of a Change of Control and within 120 days after the completion of the offer to repurchase the Notes pursuant to the provisions of the Indenture described under Change of Control, any redemption of Indebtedness of the Issuer required pursuant to the terms thereof;

(8) the payment by the Issuer of any dividend on shares of the Series B Preferred Stock, in accordance with the terms thereof set forth in the Issuer s certificate of incorporation as in effect on the Issue Date (as may be modified thereafter in a manner not adverse to the Holders), whether paid in cash or Equity Interests (other than Disqualified Equity Interests);

(9) payments of dividends on Disqualified Equity Interests issued in compliance with the covenant described under Limitations on Additional Indebtedness;

(10) payments made using any Net Proceeds Deficiency (as such term is defined in Limitations on Asset Sales below);

(11) redemptions and repurchases of Equity Interests of the Issuer held by any Person; *provided*, *however*, that the aggregate cash consideration paid for all such redemptions and repurchases either (i) made pursuant to this clause (11) or (ii) made since June 16, 2011 that would not have been permitted by any other clause of the Indenture had the Indenture been in effect on and after such date, shall not exceed $200.0 million in the aggregate; or

(12) other Restricted Payments in an amount which, when taken together with all other Restricted Payments made pursuant to this clause (12), does not exceed $50.0 million in the aggregate (with the amount of each Restricted Payment being determined as of the date made and without regard to subsequent changes in value);

provided, *however*, that (a) in the case of any Restricted Payment pursuant to clause (3)(b), (10) or (12) above, no Default shall have occurred and be continuing or will occur as a consequence thereof and (b) no issuance and sale of Qualified Equity Interests pursuant to clause (2) or (3) above shall increase the Restricted Payments Basket, except to the extent the proceeds thereof exceed the amounts used to effect the transactions described therein.

Limitations on Dividends and Other Restrictions Affecting Restricted Subsidiaries

The Issuer will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distributions on or in respect of its Equity Interests;

(b) make loans or advances, or pay any Indebtedness or other obligation owed, to the Issuer or any other Restricted Subsidiary; or

(c) transfer any of its assets to the Issuer or any other Restricted Subsidiary;

except for:

(1) encumbrances or restrictions existing under or by reason of applicable law;

(2) encumbrances or restrictions existing under the Indenture (including the Guarantees), the Notes and the exchange notes to be issued pursuant to the exchange offer (including any guarantees thereof and any indenture under which the exchange notes are issued);

(3) non-assignment provisions or other restrictions on transfer contained in any lease, license or other contract;

(4) encumbrances or restrictions existing under agreements existing on the Issue Date (including any Credit Facility (including the Credit Agreement), the Senior Notes Indenture and the Existing Senior Subordinated Notes Indentures) (with similar restrictions under any such agreement applicable to future Restricted Subsidiaries being permitted hereunder);

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(5) encumbrances or restrictions under any Credit Facility (including any Credit Agreement) (including with regard to future Restricted Subsidiaries);

(6) restrictions on the transfer of assets subject to any Lien imposed by the holder of such Lien;

(7) restrictions on the transfer of assets imposed under any agreement to sell such assets to any Person pending the closing of such sale;

(8) encumbrances or restrictions under any instrument governing Acquired Indebtedness that are not applicable to any Person, or the properties or assets of any Person, other than the Person or the properties or assets of the Person so acquired;

(9) encumbrances or restrictions under any other agreement entered into after the Issue Date that are, in the good faith judgment of the Issuer, not materially more restrictive, taken as a whole, with respect to any Restricted Subsidiary than those in effect on the Issue Date with respect to that Restricted Subsidiary (or any future Restricted Subsidiary) pursuant to agreements in effect on the Issue Date (including the Indenture, the Senior Notes Indenture, the Existing Senior Subordinated Notes Indentures and the Credit Agreement);

(10) restrictions under customary provisions in partnership agreements, limited liability company organizational or governance documents, joint venture agreements, corporate charters, stockholders agreements, and other similar agreements and documents on the transfer of ownership interests in such partnership, limited liability company, joint venture or similar Person;

(11) encumbrances or restrictions imposed under Purchase Money Indebtedness on the assets acquired that are of the nature described in clause (c) above, *provided* such Purchase Money Indebtedness is incurred in compliance with the covenant described under Limitations on Additional Indebtedness;

(12) restrictions of the nature described in clause (c) above contained in any security agreement or mortgage securing Indebtedness or other obligations of the Issuer or any Restricted Subsidiary to the extent such restrictions restrict the transfer of the property subject to such security agreement or mortgage; and

(13) any encumbrances or restrictions imposed by any amendments or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (12) above; *provided*, *however*, that such encumbrances or restrictions are, in the good faith judgment of the Issuer, no more materially restrictive, taken as a whole, than those in effect prior to such amendment or refinancing.

Limitations on Transactions with Affiliates

The Issuer will not, and will not permit any Restricted Subsidiary to, directly or indirectly, in one transaction or a series of related transactions, sell, lease, transfer or otherwise dispose of any of its assets to, or purchase any assets from, or enter into any contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate (an Affiliate Transaction), unless:

(1) such Affiliate Transaction is on terms that are no less favorable to the Issuer or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction at such time on an arm s-length basis by the Issuer or that Restricted Subsidiary from a Person that is not an Affiliate of the Issuer or that Restricted Subsidiary; and

(2) the Issuer delivers to the Trustee:

(a) with respect to any Affiliate Transaction involving aggregate value expended by the Issuer or any Restricted Subsidiary in a consecutive twelve-month period in excess of $15.0 million, an Officers Certificate certifying that such Affiliate Transaction complies with clause (1) above and a Secretary s Certificate which sets forth and authenticates a resolution that has been adopted by a majority of the Independent Directors approving such Affiliate Transaction; and

(b) with respect to any Affiliate Transaction involving aggregate value expended by the Issuer or any Restricted Subsidiary in a consecutive twelve-month period of $50.0 million or more, the

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certificates described in the preceding clause (a) and a written opinion as to the fairness of such Affiliate Transaction to the Issuer or such Restricted Subsidiary from a financial point of view issued by an Independent Financial Advisor.

The foregoing restrictions shall not apply to:

(1) transactions exclusively between or among (a) the Issuer and one or more Restricted Subsidiaries or (b) Restricted Subsidiaries, *provided*, in each case, that no Affiliate of the Issuer (other than another Restricted Subsidiary) owns Equity Interests of any such Restricted Subsidiary;

(2) director, officer and employee compensation (including bonuses) and other benefits (including retirement, health, stock option and other benefit plans) and indemnification and insurance arrangements;

(3) the entering into of any tax sharing agreement, or the making of payments pursuant to any such agreement, between the Issuer and/or one or more Subsidiaries, on the one hand, and any other Person with which the Issuer or such Subsidiaries are required or permitted to file a consolidated tax return or with which the Issuer or such Subsidiaries are part of a consolidated group for tax purposes, on the other hand, which payments by the Issuer and the Subsidiaries are not materially in excess of the tax liabilities that would have been payable by them on a stand-alone basis;

(4) any Permitted Investments;

(5) Restricted Payments which are made in accordance with the covenant described above under Limitations on Restricted Payments (including payments and transactions that would constitute Restricted Payments but for the exclusions in clauses (1) and (2) of the definition thereof);

(6) any transaction with an Affiliate where the only consideration paid by the Issuer or any Restricted Subsidiary is Qualified Equity Interests (and any payments of cash in lieu of delivering fractional shares in connection therewith);

(7) the sale to an Affiliate of the Issuer of Equity Interests of the Issuer that do not constitute Disqualified Equity Interests, and the sale to an Affiliate of the Issuer of Indebtedness (including Disqualified Equity Interests) of the Issuer in connection with an offering of such Indebtedness in a market transaction and on terms substantially identical to those of other purchasers in such market transaction who are not Affiliates;

(8) any transaction with a joint venture in which the Issuer or a Restricted Subsidiary is a joint venturer and no other Affiliate is a joint venturer, or with any Subsidiary thereof or other joint venturer therein, pursuant to the joint venture agreement or related agreements for such joint venture, including any transfers of any equity or ownership interests in any such joint venture to any other joint venturer therein pursuant to the performance or exercise of any rights or obligations to make such transfer under the terms of the agreements governing such joint venture; or

(9) without limiting clause (8) immediately above, (a) any transaction with a P&G JV Company or any Subsidiary or member thereof pursuant to the P&G JV Agreements or (b) any other transactions with a P&G JV Company or any Subsidiary or member thereof for the manufacturing, packaging, supply or distribution of products or materials, or the provision of other administrative or operational services (whether on a transitional or ongoing basis), solely with respect to the consumer diagnostic business, so long as, with respect to this clause (b), the charges for manufacturing such products are on a cost-plus basis.

The foregoing restrictions in clause (2) of the first paragraph of this covenant shall not apply to ordinary course transactions between the Issuer or any Restricted Subsidiary and an Unrestricted Subsidiary.

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Limitations on Liens

The Issuer shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create, incur, assume or permit or suffer to exist any Lien of any nature whatsoever (other than Permitted Liens) against any assets of the Issuer or any Restricted Subsidiary (including Equity Interests of a Restricted Subsidiary), whether owned on the Issue Date or thereafter acquired, or any proceeds therefrom, in each case securing an obligation that ranks *pari passu* in right of payment with, or that is subordinated in right of payment to, the Notes or any Guarantee, unless contemporaneously therewith:

(1) in the case of any Lien securing an obligation that ranks *pari passu* in right of payment with the Notes or any Guarantee, effective provision is made to secure the Notes or such Guarantee, as the case may be, at least equally and ratably with or prior to such obligation with a Lien on the same collateral; and

(2) in the case of any Lien securing an obligation that is subordinated in right of payment to the Notes or a Guarantee, effective provision is made to secure the Notes or such Guarantee, as the case may be, with a Lien on the same collateral that is prior to the Lien securing such subordinated obligation,

in each case, for so long as such obligation is secured by such Lien.

Limitations on Asset Sales

The Issuer will not, and will not permit any Restricted Subsidiary to, directly or indirectly, consummate any Asset Sale unless:

(1) the Issuer or such Restricted Subsidiary receives consideration at the time of such Asset Sale at least equal to the Fair Market Value of the assets included in such Asset Sale; and

(2) at least 75% (or, solely in the case of any Asset Sale to create any Health Management Joint Venture, 50%) of the total consideration received in such Asset Sale consists of cash or Cash Equivalents.

For purposes of clause (2) (and not for purposes of determining the Net Available Proceeds with respect to the application and purchase offer provisions in this covenant), the following shall be deemed to be cash:

(a) the amount (without duplication) of any Indebtedness of the Issuer or such Restricted Subsidiary that is expressly assumed by the transferee in such Asset Sale and with respect to which the Issuer or such Restricted Subsidiary, as the case may be, is released by the holder of such Indebtedness;

(b) the amount of any obligations received from such transferee that are within 180 days converted by the Issuer or such Restricted Subsidiary to cash (to the extent of the cash actually so received);

(c) the Fair Market Value of (i) any assets (other than securities) received by the Issuer or any Restricted Subsidiary to be used by it in the Permitted Business, (ii) Equity Interests in a Person that is a Restricted Subsidiary or in a Person engaged in a Permitted Business that shall become a Restricted Subsidiary immediately upon the acquisition of such Person by the Issuer or (iii) a combination of (i) and (ii); and

(d)

the Fair Market Value of any Equity Interests for which the Issuer or such Restricted Subsidiary has a contractual right to require the registration of such Equity Interests under the Securities Act or the applicable securities laws of the jurisdiction in which such securities are listed on a Major Foreign Exchange (Designated Non-Cash Consideration); *provided*, *however*, that no consideration received in an Asset Sale will constitute Designated Non-Cash Consideration if and to the extent that the classification of such consideration as Designated Non-Cash Consideration would cause the aggregate amount of all such Designated Non-Cash Consideration outstanding at that time to exceed 2.5% of Consolidated Total Assets (with the Fair Market Value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value).

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If at any time any non-cash consideration (including any Designated Non-Cash Consideration) received by the Issuer or any Restricted Subsidiary of the Issuer, as the case may be, in connection with any Asset Sale is repaid or converted into or sold or otherwise disposed of for cash (other than interest received with respect to any such non-cash consideration), then the date of such repayment, conversion or disposition shall be deemed to constitute the date of an Asset Sale hereunder and the Net Available Proceeds thereof shall be applied in accordance with this covenant.

If the Issuer or any Restricted Subsidiary engages in an Asset Sale, the Issuer or such Restricted Subsidiary shall, no later than 360 days following the consummation thereof, apply all or any (or, in the Issuer s discretion, none) of the Net Available Proceeds therefrom to:

(1) repay Senior Debt or Guarantor Senior Debt, and in the case of any such repayment under any revolving credit facility, effect a permanent reduction in the availability under such revolving credit facility, in each case if and to the extent permitted under the terms of such Senior Debt or Guarantor Senior Debt;

(2) repay any Indebtedness which was secured by the assets sold in such Asset Sale; and/or

(3) (a) invest all or any part of the Net Available Proceeds thereof in assets (other than securities), including expenditures for research and development activities, to be used by the Issuer or any Restricted Subsidiary in the Permitted Business, (b) acquire Equity Interests in a Person that is a Restricted Subsidiary or in a Person engaged in a Permitted Business that shall become a Restricted Subsidiary immediately upon the consummation of such acquisition or (c) a combination of (a) and (b).

The amount of Net Available Proceeds not applied or invested as provided in this paragraph will constitute Excess Proceeds. The Issuer or such Restricted Subsidiary may repay Senior Debt or Guarantor Senior Debt under a revolving Credit Facility during the 360 days following the consummation of such Asset Sale without effecting a permanent reduction in the availability under such revolving credit facility, pending application of such proceeds pursuant to clause (1), (2) or (3) above or their use as Excess Proceeds in accordance with the next paragraph, and such repayment shall not be considered an application of Net Available Proceeds for purposes of this paragraph; *provided*, *however*, that, if such Net Available Proceeds are not applied after 360 days for any purpose other than the repayment of a revolving credit facility, a permanent reduction in the availability under such revolving credit facility shall then be required in order for such repayment to be considered an application of Net Available Proceeds for purposes of this paragraph.

When the aggregate amount of Excess Proceeds equals or exceeds $50.0 million, the Issuer will be required to make an offer to purchase from all Holders and, if applicable, redeem (or make an offer to do so) any Pari Passu Indebtedness of the Issuer the provisions of which require the Issuer to redeem such Pari Passu Indebtedness with the proceeds from any Asset Sales (or offer to do so), in an aggregate principal amount of Notes and such Pari Passu Indebtedness equal to the amount of such Excess Proceeds as follows:

(1) the Issuer will (a) make an offer to purchase (a Net Proceeds Offer) to all Holders in accordance with the procedures set forth in the Indenture, and (b) redeem (or make an offer to do so) any such other Pari Passu Indebtedness, on a *pro rata* basis (or on as nearly a *pro rata* basis as is practicable) in proportion to the respective principal amounts of the Notes and such other Pari Passu Indebtedness required to be redeemed, the maximum principal amount of Notes (in each case in whole in a principal amount of $1,000 or integral multiples thereof; *provided*, *however*, that no Note will be purchased in part if such Note would have a remaining amount of less than $2,000) and Pari Passu Indebtedness that may be redeemed out of the amount (the Payment Amount) of such Excess Proceeds;

(2) the offer price for the Notes will be payable in cash in an amount equal to 100% of the principal amount of the Notes tendered pursuant to a Net Proceeds Offer, plus accrued and unpaid interest thereon, if any, to the date such Net Proceeds Offer is consummated (the Offered Price), in accordance with the procedures set forth in the Indenture and the redemption price for such Pari Passu Indebtedness (the Pari Passu Indebtedness Price) shall be as set forth in the related documentation governing such Indebtedness;

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(3) if the aggregate Offered Price of Notes validly tendered and not withdrawn by Holders thereof exceeds the *pro rata* portion of the Payment Amount allocable to the Notes, Notes to be purchased will be selected on a *pro rata* basis (or on as nearly a *pro rata* basis as is practicable); and

(4) upon completion of such Net Proceeds Offer in accordance with the foregoing provisions, the amount of Excess Proceeds with respect to which such Net Proceeds Offer was made shall be deemed to be zero.

To the extent that the sum of the aggregate Offered Price of Notes tendered pursuant to a Net Proceeds Offer and the aggregate Pari Passu Indebtedness Price paid to the holders of such Pari Passu Indebtedness is less than the Payment Amount relating thereto (such shortfall constituting a Net Proceeds Deficiency), the Issuer may use the Net Proceeds Deficiency, or a portion thereof, for general corporate purposes, subject to the provisions of the Indenture, and the amount of Excess Proceeds with respect to such Net Proceeds Offer shall be deemed to be zero.

The Issuer will comply with applicable tender offer rules, including the requirements of Rule 14e-1 under the Exchange Act and any other applicable laws and regulations in connection with the purchase of Notes pursuant to a Net Proceeds Offer. To the extent that the provisions of any securities laws or regulations conflict with the covenant described under Limitations on Asset Sales, the Issuer shall comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the covenant described under Limitations on Asset Sales by virtue of this compliance.

Limitations on Designation of Unrestricted Subsidiaries

The Issuer may designate any Subsidiary of the Issuer (including any newly acquired or newly formed Subsidiary) as an Unrestricted Subsidiary under the Indenture (a Designation) only if:

(1) no Default shall have occurred and be continuing at the time of or after giving effect to such Designation; and

(2) the Issuer would be permitted to make, at the time of such Designation, (a) a Permitted Investment or (b) an Investment pursuant to the first paragraph of Limitations on Restricted Payments above, in either case, in an amount (the Designation Amount) equal to the Fair Market Value of the Issuer s proportionate interest in such Subsidiary on such date *less*, for this purpose, the amount of any intercompany loan from the Issuer or any Restricted Subsidiary to such Subsidiary that was treated as a Restricted Payment.

No Subsidiary shall be Designated as an Unrestricted Subsidiary unless such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Debt;

(2) is not party to any agreement, contract, arrangement or understanding with the Issuer or any Restricted Subsidiary unless the terms of the agreement, contract, arrangement or understanding are no less favorable to the Issuer or the Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates;

(3) is a Person with respect to which neither the Issuer nor any Restricted Subsidiary has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve the Person s financial condition or to cause the Person to achieve any specified levels of operating results; and

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Issuer or any Restricted Subsidiary in excess of $25.0 million in the aggregate, except for any guarantee given solely to support the pledge by the Issuer or any Restricted Subsidiary of the Equity Interests of such Unrestricted Subsidiary, which guarantee is not recourse to the Issuer or any Restricted Subsidiary, and except to the extent the amount thereof constitutes a Restricted Payment permitted pursuant to the

covenant described under Limitations on Restricted Payments.

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If, at any time, any Unrestricted Subsidiary fails to meet the preceding requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of the Indenture and any Indebtedness of the Subsidiary and any Liens on assets of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary as of the date of such cessation and, if the Indebtedness is not permitted to be incurred under the covenant described under Limitations on Additional Indebtedness above, or the Lien is not permitted under the covenant described under Limitations on Liens above, the Issuer shall be in default of the applicable covenant.

The Issuer may redesignate an Unrestricted Subsidiary as a Restricted Subsidiary (a Redesignation) only if:

(1) no Default shall have occurred and be continuing at the time of and after giving effect to such Redesignation; and

(2) all Liens, Indebtedness and Investments of such Unrestricted Subsidiary outstanding immediately following such Redesignation would, if incurred or made at such time, have been permitted to be incurred or made for all purposes of the Indenture.

All Designations and Redesignations must be evidenced by (1) resolutions of the Board of Directors of the Issuer, and (2) an Officers Certificate certifying compliance with the foregoing provisions, in each case delivered to the Trustee.

Limitations on Sale and Leaseback Transactions

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

(1) the Issuer or such Restricted Subsidiary could have (a) incurred the Indebtedness attributable to such Sale and Leaseback Transaction pursuant to the covenant described under Limitations on Additional Indebtedness and (b) incurred a Lien to secure such Indebtedness without equally and ratably securing the Notes pursuant to the covenant described under Limitations on Liens;

(2) the gross cash proceeds of such Sale and Leaseback Transaction are at least equal to the Fair Market Value of the asset that is the subject of such Sale and Leaseback Transaction; and

(3) the transfer of assets in such Sale and Leaseback Transaction is permitted by, and the Issuer or the applicable Restricted Subsidiary applies the proceeds of such transaction in accordance with, the covenant described under Limitations on Asset Sales.

Limitations on the Issuance or Sale of Equity Interests of Restricted Subsidiaries

The Issuer will not, and will not permit any Restricted Subsidiary to, directly or indirectly, sell or issue any shares of Equity Interests of any Restricted Subsidiary except (1) by any Wholly-Owned Restricted Subsidiary to the Issuer or any Restricted Subsidiary, (2) to the Issuer, a Restricted Subsidiary or the minority stockholders of any Restricted Subsidiary, on a *pro rata* basis, at Fair Market Value, or (3) to the extent such shares represent directors qualifying shares or shares required by applicable law to be held by a Person other than the Issuer or a Wholly-Owned Restricted Subsidiary. The sale of all the Equity Interests of any Restricted Subsidiary is permitted by this covenant but is subject to the covenant described under Limitations on Asset Sales.

Limitations on Mergers, Consolidations, Etc.

The Issuer will not, directly or indirectly, in a single transaction or a series of related transactions (a) consolidate or merge with or into any other Person (other than a merger with a Wholly-Owned Restricted Subsidiary solely for the purpose of changing the Issuer s name or jurisdiction of incorporation to another State

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of the United States), or sell, lease, transfer, convey or otherwise dispose of or assign all or substantially all of the assets of the Issuer or the Issuer and the Restricted Subsidiaries (taken as a whole) to any other Person or (b) effect a Plan of Liquidation unless, in either case:

(1) either (x) the Issuer will be the surviving or continuing Person or (y) the Person formed by or surviving such consolidation or merger (if not the Issuer) or to which such sale, lease, conveyance or other disposition shall be made (or, in the case of a Plan of Liquidation, any Person to which assets are transferred) (collectively, the Successor) is a corporation organized and existing under the laws of any State of the United States of America or the District of Columbia, and the Successor expressly assumes, by supplemental indenture in form and substance satisfactory to the Trustee, all of the obligations of the Issuer under the Notes, the Indenture and the registration rights agreement relating to the exchange offer (and any similar registration rights agreement entered into in connection with the issuance of any Additional Notes);

(2) immediately after giving effect to such transaction and the assumption of the obligations as set forth in clause (1)(y) above, if applicable, and the incurrence of any Indebtedness to be incurred in connection therewith, no Default shall have occurred and be continuing; and

(3) except in the case of the consolidation or merger of any Restricted Subsidiary with or into the Issuer, immediately after giving effect to such transaction and the assumption of the obligations set forth in clause (1)(y) above, if applicable, and the incurrence of any Indebtedness to be incurred in connection therewith, and the use of any net proceeds therefrom on a *pro forma* basis, (a) the Consolidated Net Worth of the Issuer or the Successor, as the case may be, would be at least equal to the Consolidated Net Worth of the Issuer immediately prior to such transaction and (b) either (i) the Issuer or the Successor, as the case may be, could incur $1.00 of additional Indebtedness pursuant to the Coverage Ratio Exception or (ii) the Consolidated Interest Coverage Ratio of the Issuer or the Successor, as the case may be, determined on a *pro forma* basis for such transaction, would not be lower than the Consolidated Interest Coverage Ratio of the Issuer immediately prior to such transaction.

For purposes of this covenant, any Indebtedness of the Successor which was not Indebtedness of the Issuer immediately prior to the transaction shall be deemed to have been incurred in connection with such transaction.

Except as provided under the caption Guarantees of the Notes, no Guarantor may consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person (other than the Issuer or another Guarantor), whether or not affiliated with such Guarantor, unless:

(1) either:

(a) such Guarantor will be the surviving or continuing Person; or

(b) the Person formed by or surviving any such consolidation or merger assumes, by supplemental indenture in the relevant form attached to the Indenture, all of the obligations of such Guarantor under the Guarantee of such Guarantor, the Indenture and the registration rights agreement relating to the exchange offer (and any similar registration rights agreement entered into in connection with the issuance of any Additional Notes); and

(2) immediately after giving effect to such transaction, no Default shall have occurred and be continuing.

For purposes of this covenant, the sale, lease, transfer, conveyance or other disposition or assignment of all or substantially all of the assets of one or more Restricted Subsidiaries, the Equity Interests of which constitute all or substantially all of the assets of the Issuer, will be deemed to be the transfer of all or substantially all of the assets of the Issuer.

Except as provided under the caption Guarantees of the Notes, upon any consolidation, combination or merger of the Issuer or a Guarantor, or any sale, lease, transfer, conveyance or other disposition or assignment of

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all or substantially all of the assets of the Issuer in accordance with the foregoing, in which the Issuer or such Guarantor is not the continuing obligor or continuing guarantor, as the case may be, under the Notes or its Guarantee, the surviving entity formed by such consolidation or into which the Issuer or such Guarantor is merged or the entity to which the sale, lease, transfer, conveyance or other disposition or assignment is made will succeed to, and be substituted for, and may exercise every right and power of, the Issuer or such Guarantor under the Indenture, the Notes and the Guarantee with the same effect as if such surviving entity had been named therein as the Issuer or such Guarantor, and, except in the case of a lease, the Issuer or such Guarantor, as the case may be, will be released from the obligation to pay the principal of and interest on the Notes or in respect of its Guarantee, as the case may be, and all of the Issuer s or such Guarantor s other obligations and covenants under the Notes, the Indenture, the registration rights agreement relating to the exchange offer (and any similar registration rights agreement entered into in connection with the issuance of any Additional Notes) and its Guarantee, if applicable.

Notwithstanding the foregoing, any Restricted Subsidiary may merge into the Issuer or another Restricted Subsidiary.

Additional Guarantees

If, after the Issue Date, (a) the Issuer or any Restricted Subsidiary acquires or creates a Domestic Subsidiary that guarantees any Indebtedness or other Obligation under any Credit Agreement (other than a Subsidiary that has been designated an Unrestricted Subsidiary), or (b) any Unrestricted Subsidiary that is a Domestic Subsidiary that guarantees any Indebtedness or other Obligation under any Credit Agreement is redesignated a Restricted Subsidiary, then, in each such case, the Issuer shall cause such Restricted Subsidiary to execute and deliver to the Trustee a supplemental indenture in the relevant form attached to the Indenture, pursuant to which such Restricted Subsidiary shall unconditionally and irrevocably guarantee all of the Issuer s obligations under the Notes and the Indenture. Thereafter, such Restricted Subsidiary shall be a Guarantor for all purposes of the Indenture.

Conduct of Business

The Issuer will not, and will not permit any Restricted Subsidiary to, engage in any business other than the Permitted Business.

SEC Reports

Whether or not required by the SEC s rules and regulations, so long as any Notes are outstanding, the Issuer will furnish to the Holders of Notes, cause the Trustee to furnish to the Holders, or file electronically with the SEC through the SEC s Electronic Data Gathering, Analysis and Retrieval System (or any successor system, including the Interactive Data Electronic Applications System), within the time periods (including any extensions thereof) applicable to (or that would be applicable to) the Issuer under 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 or 10-K (or any successor forms), as the case may be, if the Issuer were required to file these 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 Issuer s independent accountants; and

(2) all current reports that would be required to be filed with the SEC on Form 8-K (or any successor form) if the Issuer were required to file these reports.

In addition, whether or not required by the SEC s rules and regulations, the Issuer will file a copy of all of the information and reports referred to in clauses (1) and (2) above with the SEC for public availability within the time periods applicable to the Issuer under Section 13(a) or 15(d) of the Exchange Act (unless the SEC will not

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accept the filing, in which case the Issuer shall make the information available to securities analysts and prospective investors upon request). For so long as any Notes remain outstanding, the Issuer 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. The Issuer also shall comply with the other provisions of Trust Indenture Act § 314(a). Delivery of such reports and information to the Trustee is for informational purposes only and the Trustee s receipt of them will not constitute constructive notice of any information contained therein or determinable from information contained therein (including the Issuer s compliance with any of its covenants under the Indenture as to which the Trustee is entitled to rely exclusively on an Officers Certificate).

Suspension of Covenants

If during any period of time following the issuance of the Notes that (i) the Notes have a rating equal to or higher than Baa3 (or the equivalent) by Moody s and BBB- (or the equivalent) by S&P, or, if both will not make a rating on the Notes publicly available, from a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Issuer that will be substituted for Moody s or S&P or both, as the case may be (Moody s, S&P or such other agency or agencies, as the case may be, the Rating Agencies), an equivalent rating by such other agency or agencies, as the case may be (any such rating, an Investment Grade Rating), and (ii) no Default has occurred and is continuing under the Indenture (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a Covenant Suspension Event), the Issuer and the Restricted Subsidiaries will not be subject to the covenants described above under the following headings:

(1) Limitations on Additional Indebtedness;

(2) Limitations on Restricted Payments;

(3) Limitations on Dividends and other Restrictions Affecting Restricted Subsidiaries;

(4) Limitations on Transactions with Affiliates;

(5) Limitations on Asset Sales;

(6) Limitations on Sale and Leaseback Transactions; and

(7) clause (3) under Limitations on Mergers, Consolidations, Etc.

(collectively, the Suspended Covenants). Upon the occurrence of a Covenant Suspension Event, the amount of Net Available Proceeds with respect to any applicable Asset Sale will be set at zero at such date (the Suspension Date). In the event that the Issuer and the Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the foregoing, and on any subsequent date (the Reversion Date) one or both of the Rating Agencies withdraws its Investment Grade Rating or downgrades the rating assigned to the Notes below an Investment Grade Rating or a Default occurs and is continuing, then the Issuer and the Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants, but only with respect to events after the Reversion Date. The period of time between the Suspension Date and the Reversion Date is referred to as the Suspension Period. Notwithstanding that the Suspended Covenants may be reinstated, no Default will be deemed to have occurred as a result of a failure to comply with the Suspended Covenants during the Suspension Period.

On the Reversion Date, all Indebtedness incurred during the Suspension Period will be subject to the covenant described above under the caption Limitations on Additional Indebtedness. To the extent such Indebtedness would not be so permitted to be incurred pursuant to the covenant described above under the caption Limitations on Additional Indebtedness, such Indebtedness will be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under clause (3) of the definition of Permitted Indebtedness.

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Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under the covenant described above under the caption Limitations on Restricted Payments will be made as though such covenant had been in effect from the Issue Date and throughout the Suspension Period. Accordingly, Restricted Payments made during the Suspension Period will be deemed to have been permitted but will reduce the amount available to be made as Restricted Payments under the first paragraph of the covenant described below under the caption Limitations on Restricted Payments.

During a Suspension Period, the Issuer may not designate a Subsidiary as an Unrestricted Subsidiary under the covenant described under the caption Limitations on Designation of Unrestricted Subsidiaries.

Notwithstanding the foregoing, neither (a) the continued existence, after the Reversion Date, of facts and circumstances or obligations that occurred, were incurred or otherwise came into existence during a Suspension Period nor (b) the performance of any such obligations, shall constitute a breach of any Suspended Covenant set forth in the Indenture or cause a Default thereunder, *provided* that (1) the Issuer and the Restricted Subsidiaries did not incur or otherwise cause such facts and circumstances or obligations to exist in anticipation of a withdrawal or downgrade by the applicable Rating Agency below an Investment Grade Rating and (2) the Issuer reasonably believed that such incurrence or actions would not result in such withdrawal or downgrade. The Issuer shall inform the Trustee of the occurrence of a Covenant Suspension Event or a Reversion Date and in the absence of any such notice, the Trustee shall be entitled to assume that no such event occurred.

Events of Default

Each of the following is an Event of Default :

(1) failure by the Issuer to pay interest on any of the Notes when it becomes due and payable and the continuance of any such failure for 30 consecutive days (whether or not such payment is prohibited by the subordination provisions of the Indenture);

(2) failure by the Issuer to pay the principal on any of the Notes when it becomes due and payable, whether at stated maturity, upon redemption, upon purchase, upon acceleration or otherwise (including the failure to make a payment to purchase Notes tendered pursuant to a Change of Control Offer or Net Proceeds Offer on the date specified for such payment in the applicable offer to purchase, if required) (whether or not such payment is prohibited by the subordination provisions of the Indenture);

(3) failure by the Issuer to comply with any other agreement or covenant in the Indenture and the continuance of any such failure for 60 consecutive days after notice of the failure has been given to the Issuer by the Trustee or by the Holders of at least 25% of the aggregate principal amount of the Notes then outstanding (except in the case of a default with respect to the covenant described under Limitations on Mergers, Consolidations, Etc. which will constitute an Event of Default with such notice requirement but without such passage of time requirement);

(4) default under any mortgage, indenture or other instrument or agreement under which there may be issued or by which there may be secured or evidenced Indebtedness of the Issuer or any Restricted Subsidiary, whether such Indebtedness exists on the Issue Date or is incurred thereafter, which default:

   (a) is caused by a failure to pay at final maturity (giving effect to any applicable grace periods and any extensions thereof) principal on such Indebtedness, or

   (b) results in the acceleration of such Indebtedness prior to its express final maturity, and in each case, the principal amount of such Indebtedness, together with any other Indebtedness with respect to which an event described in clause (a) or (b) has occurred and is continuing, aggregates $50.0 million or more;

(5) entry by a court or courts of competent jurisdiction against the Issuer or any Restricted Subsidiary of one or more final judgments or orders for the payment of money that exceed $50.0 million in the

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aggregate (net of amounts covered by insurance or bonded) and such judgments or orders have not been satisfied, stayed, annulled or rescinded within 60 days of entry (or such longer period as may be permitted for timely appeal under applicable law);

(6) the Issuer or any Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(a) commences a voluntary case,

(b) consents to the entry of an order for relief against it in an involuntary case,

(c) consents to the appointment of a Custodian of it or for all or substantially all of its assets, or

(d) makes a general assignment for the benefit of its creditors;

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

(a) is for relief against the Issuer or any Significant Subsidiary as debtor in an involuntary case,

(b) appoints a Custodian of the Issuer or any Significant Subsidiary or a Custodian for all or substantially all of the assets of the Issuer or any Significant Subsidiary, or

(c) orders the liquidation of the Issuer or any Significant Subsidiary,

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

(8) (a) the Guarantee of any Significant Subsidiary (i) ceases to be in full force and effect (other than in accordance with the terms of the Indenture (including such Guarantee)) or (ii) is declared null and void and unenforceable or found to be invalid, and such circumstance or event remains uncured for a period of 30 days, or (b) any Guarantor denies its liability under its Guarantee (other than by reason of release of a Guarantor from its Guarantee in accordance with the terms of the Indenture (including such Guarantee)).

If an Event of Default (other than an Event of Default specified in clause (6) or (7) above with respect to the Issuer), shall have occurred and be continuing under the Indenture, the Trustee, by written notice to the Issuer, or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding by written notice to the Issuer and the Trustee, may declare all amounts owing under the Notes to be due and payable, which notice shall specify each applicable Event of Default and that it is a notice of acceleration (an Acceleration Notice). Upon proper delivery of an Acceleration Notice, the aggregate principal of and accrued and unpaid interest on the outstanding Notes shall become due and payable (a) if there is any Designated Senior Debt outstanding at such time, with respect to any acceleration arising out of any Event of Default other than a payment default under clause (1) or (2) above, upon the earlier of (x) the date which is 5 Business Days after receipt by the Representatives of such Acceleration Notice or (y) the date of acceleration of any Designated Senior Debt and (b) if otherwise, immediately, but, in any case, only if one or more of the Events of Default specified in such Acceleration Notice are then continuing; *provided*, *however*, that after such declaration of acceleration, but before a judgment or decree based on acceleration, the Holders of at least a majority in aggregate principal amount of such outstanding Notes may, under certain circumstances and on behalf of all the Holders, rescind and annul such declaration of acceleration and its consequences if all existing Events of Default, other than the nonpayment of accelerated principal and interest, have been cured or waived as provided in the Indenture. If an Event of Default specified in clause (6) or (7) with respect to the Issuer occurs, all outstanding Notes shall become immediately due and payable without any further action or notice.

The Trustee shall, within 30 days after the occurrence of any Default with respect to the Notes or, if later, after the Trustee is deemed to have knowledge of such Default (pursuant to the Indenture), give the Holders notice of all uncured Defaults thereunder of which it received written notice; *provided*, *however*, that, except in the case of a Default in payment with respect to the Notes or a Default in complying with Certain Covenants Limitations on Mergers, Consolidations, Etc., the Trustee will be protected in withholding such notice if and so long as the board of directors, the executive committee or a committee of its trust officers in good faith determines that the withholding of such notice is in the interest of the Holders.

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No Holder will have any right to institute any proceeding with respect to the Indenture or for any remedy thereunder, unless the Trustee:

(1) has failed to act for a period of 60 consecutive days after receiving written notice of a continuing Event of Default from such Holder and a request to act by Holders of at least 25% in aggregate principal amount of the outstanding Notes;

(2) has been offered indemnity satisfactory to it in its reasonable judgment; and

(3) has not received from the Holders of a majority in aggregate principal amount of the outstanding Notes a direction inconsistent with such request.

However, such limitations do not apply to a suit instituted by a Holder of any Note for enforcement of payment of the principal of or interest on such Note on or after the due date therefor (after giving effect to the grace period specified in clause (1) of the first paragraph of this Events of Default section).

The Issuer and each Guarantor (to the extent that such Guarantor is so required under the Trust Indenture Act) is required to deliver to the Trustee annually a statement regarding compliance with the Indenture and, upon any Officer of the Issuer becoming aware of any Default, a statement specifying such Default and what action the Issuer is taking or proposes to take with respect thereto.

Legal Defeasance and Covenant Defeasance

The Issuer may, at its option and at any time, elect to have its obligations and the obligations of the Guarantors discharged with respect to the outstanding Notes and the Guarantees (Legal Defeasance). Legal Defeasance means that the Issuer and the Guarantors shall be deemed to have paid and discharged the entire indebtedness represented by the Notes and the Guarantees, and the Indenture shall cease to be of further effect as to all outstanding Notes and the Guarantees, except as to:

(1) the rights of Holders of outstanding Notes to receive payments in respect of the principal of and interest on the Notes when such payments are due from the trust funds referred to below;

(2) the Issuer s obligations with respect to the Notes concerning issuing temporary Notes, registration of Notes, mutilated, destroyed, lost or stolen Notes, and the maintenance of an office or agency for payment and money for security payments held in trust;

(3) the rights, powers, trust, duties, and immunities of the Trustee under the Indenture and the Issuer s obligation in connection therewith; and

(4) the Legal Defeasance provisions of the Indenture.

In addition, the Issuer may, at its option and at any time, elect to have its obligations and the obligations of each of the Guarantors released with respect to most of the covenants under the Indenture, except as described otherwise in the Indenture (Covenant Defeasance), and thereafter any omission to comply with such obligations shall not constitute a Default. In the event Covenant Defeasance occurs, certain Events of Default (not including non-payment and, solely for a period of 91 days following the deposit referred to in clause (1) of the next paragraph, bankruptcy, receivership, rehabilitation and insolvency events) will no longer apply. Covenant Defeasance will not be effective until such bankruptcy, receivership, rehabilitation and insolvency events no longer apply. The Issuer may exercise its Legal Defeasance option regardless of whether it previously exercised Covenant Defeasance.

In order to exercise either Legal Defeasance or Covenant Defeasance:

(1) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, funds in Dollars or U.S. Government Obligations or a combination thereof, in such amounts as will be sufficient (without reinvestment) in the opinion of a nationally recognized firm of independent public

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accountants selected by the Issuer, to pay the principal of and interest on the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Issuer must specify to the Trustee whether the Notes are being defeased to such stated date for payment or to a particular redemption date, as the case may be, and the Holders must have a valid, perfected, exclusive security interest in such trust;

(2) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an opinion of counsel in the United States reasonably acceptable to the Trustee confirming that:

(a) the Issuer has received from, or there has been published by the Internal Revenue Service, a ruling, or

(b) since the Issue Date, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon this opinion of counsel shall confirm that, the Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of the 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;

(3) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an opinion of counsel in the United States reasonably acceptable to the Trustee confirming that the Holders 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 the Covenant Defeasance had not occurred;

(4) no Default shall have occurred and be continuing on the date of such deposit (other than a Default resulting from the borrowing of funds to be applied to such deposit and the grant of any Lien securing such borrowing);

(5) the Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under (other than a default resulting solely from the borrowing of funds to be applied to such deposit and the grant of any Lien on such deposit in favor of the Trustee and/or the Holders), any Credit Agreement or any other material agreement or instrument to which the Issuer or any of its Subsidiaries is a party or by which the Issuer or any of its Subsidiaries is bound;

(6) the Issuer shall have delivered to the Trustee an Officers Certificate stating that the deposit was not made by the Issuer with the intent of preferring the Holders over any other of its creditors or with the intent of defeating, hindering, delaying or defrauding any other of its creditors or others; and

(7) the Issuer shall have delivered to the Trustee an Officers Certificate and an opinion of counsel, stating, in the case of the Officers Certificate, that the conditions provided for in clauses (1) through (6) of this paragraph have been complied with and stating, in the case of the opinion of counsel, that clause (1) (with respect to the validity and perfection of the security interest) and the conditions provided for in clause (2) or (3), as applicable, and clause (5) of this paragraph have been complied with.

Notwithstanding anything to the contrary herein, the borrowing of funds to be applied to any deposit, and the grant of any Lien securing such borrowing, in order to effect any Legal Defeasance or Covenant Defeasance will not constitute a Default under the Indenture.

If the funds deposited with the Trustee to effect Covenant Defeasance are insufficient to pay the principal of and interest on the Notes when due, then the Issuer s obligations and the obligations of the Guarantors under the Indenture will be revived and no such defeasance will be deemed to have occurred.

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Satisfaction and Discharge

The Indenture and the Guarantees will be discharged and will cease to be of further effect (except as to rights of registration of transfer or exchange of Notes, which shall survive until all Notes have been canceled) as to all outstanding Notes when either:

(1) all the Notes that have been authenticated and delivered (except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from this trust) have been delivered to the Trustee for cancellation; or

(2) (a) all Notes that have not been delivered to the Trustee for cancellation either (i) have become due and payable by reason of the mailing of a notice of redemption as described in Redemption or otherwise or (ii) will become due and payable within one year, and in each of the foregoing cases the Issuer has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders funds in Dollars or U.S. Government Obligations in amounts sufficient (without reinvestment) to pay and discharge the entire Indebtedness (including all principal and accrued interest) on the Notes not theretofore delivered to the Trustee for cancellation to the date of maturity or redemption,

(b) the Issuer or any Guarantor has paid or caused to be paid all other sums payable by the Issuer under the Indenture,

(c) the Issuer has delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes at maturity or on the date of redemption, as the case may be, and

(d) the Holders have a valid, perfected, exclusive security interest in this trust.

In addition, the Issuer must deliver an Officers Certificate and an opinion of counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been complied with.

Transfer and Exchange

A Holder will be able to register the transfer of or exchange Notes only in accordance with the provisions of the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. Without the prior consent of the Issuer, the Registrar is not required (1) to register the transfer of or exchange any Note for a period of 15 days before the mailing of a notice of redemption of Notes to be redeemed, (2) to register the transfer of or exchange any Note selected for redemption or (3) to register the transfer or exchange of a Note between a record date for the payment of interest and the next succeeding interest payment date.

The Notes will be issued in registered form and the registered Holder will be treated as the owner of such Notes for all purposes.

The Notes will be initially issued in the form of one or more global notes in registered form and deposited with the Trustee as custodian for the Depository.

Amendment, Supplement and Waiver

Subject to certain exceptions, the Indenture (including the Guarantees) or the Notes may be amended or supplemented with the consent (which may include consents obtained in connection with a tender offer or exchange offer for Notes) of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding, and any existing Default under, or compliance with any provision of, the Indenture may be waived (other than any continuing Default in the payment of the principal or interest on the Notes) with the consent (which may include consents obtained in connection with a tender offer or exchange offer for Notes) of the

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Holders of a majority in aggregate principal amount of the Notes then outstanding; *provided*, *however*, that without the consent of each Holder affected, no amendment or waiver may:

(1) reduce the principal, or change the stated maturity of any Note;

(2) reduce the rate of or extend the time for payment of interest on any Note;

(3) reduce any premium payable upon optional redemption of the Notes, change the date on which any Notes are subject to redemption or otherwise alter the provisions with respect to the redemption of the Notes (other than provisions relating to the purchase of Notes described above under Change of Control and Certain Covenants Limitations on Asset Sales, except that if a Change of Control has occurred, no amendment or other modification of the obligation of the Issuer to make a Change of Control Offer relating to such Change of Control shall be made without the consent of each Holder of the Notes affected);

(4) make the principal of or interest, if any, on any Note payable in money or currency other than that stated in the Notes;

(5) modify or change any provision of the Indenture or the related definitions affecting the subordination of the Notes or the Guarantees in a manner that adversely affects the Holders in any material respect;

(6) release any Guarantor which is a Significant Subsidiary from any of its obligations under its guarantee or Indenture other than as provided in the Indenture;

(7) waive a Default in the payment of principal of or interest on any Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in principal amount of the then outstanding Notes as provided in the Indenture and a waiver of the payment Default that resulted from such acceleration);

(8) impair the rights of Holders to receive payments of principal of or interest on the Notes on or after the due date therefor;

(9) reduce the principal amount of outstanding Notes whose Holders must consent to an amendment, supplement or waiver to or under the Indenture (including the Guarantees) or the Notes; or

(10) make any change in (a) certain provisions of the Indenture relating to the right of Holders to receive payments when due or (b) these amendment or waiver provisions.

Notwithstanding the foregoing, the Issuer, the Guarantors and the Trustee, together, may amend or supplement the Indenture, the Guarantees or the Notes without the consent of any Holder, to cure any ambiguity, defect or inconsistency, to provide for uncertificated Notes in addition to or in place of certificated Notes, to provide for the assumption of the Issuer s or any Guarantor s obligations to the Holders in the case of a merger, consolidation or sale of all or substantially all of the Issuer s assets, to add Guarantees with respect to the Notes, to release any Guarantor from its Guarantee or any of its other obligations under the Indenture (to the extent permitted by the Indenture), to make any change that would provide any additional rights or benefits to the Holders or that adds covenants of the Issuer or any Guarantor for the benefit of the Holders, to surrender any right or power conferred upon the Issuer or any Guarantor, to make any change that does not materially adversely affect the rights of any Holder, to maintain the qualification of the Indenture under, or otherwise comply with, the Trust Indenture Act, to conform the text of the Indenture or the Notes to any provision of this Description of New Notes section to the extent that such provision in this Description of New Notes section was intended to be a substantially verbatim recitation of a provision of the Indenture or the Notes, or to evidence and provide for

the acceptance of appointment under the Indenture by a successor Trustee with respect to the Notes and to add or change any of the provisions of the Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee.

No amendment of, or supplement or waiver to, the Indenture shall adversely affect the rights of any holder of Senior Debt or Guarantor Senior Debt under the subordination provisions of the Indenture without the consent of such holder.

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No Personal Liability of Directors, Officers, Employees, Stockholders, Members or Managers

No director, officer, employee, incorporator, stockholder, member or manager of the Issuer or any Guarantor will have any liability for any obligations of the Issuer under the Notes or the Indenture or of any Guarantor under its Guarantee or the Indenture 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. It is the view of the SEC that this type of waiver is against public policy.

Concerning the Trustee

U.S. Bank National Association is the Trustee under the Indenture and has been appointed by the Issuer as Registrar and Paying Agent with regard to the Notes. The Indenture contains certain limitations on the rights of the Trustee, should it become a creditor of the Issuer, to obtain payment of claims in certain cases, or to realize on certain assets received in respect of any such claim as security or otherwise. The Trustee will be permitted to engage in other transactions; however, if it acquires any conflicting interest (as defined in the Indenture), it must eliminate such conflict or resign.

The Holders of at least a majority in principal amount of the then outstanding Notes will have the right to 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, subject to certain exceptions. The Indenture provides that, in case a Default occurs and is continuing, the Trustee will be required, in the exercise of its power, to use the degree of care of a prudent person in similar circumstances in the conduct of his or her own affairs. Subject to such provisions, the Trustee will be under no obligation to exercise any of its rights or powers under the Indenture at the request of any Holder, unless such Holder offers to the Trustee security and indemnity satisfactory to the Trustee.

Governing Law

The Indenture (including the Guarantees) and the Notes will be, as the case may be, governed by, and construed in accordance with, the laws of the State of New York, but without giving effect to applicable principles of conflicts of laws to the extent that the application of the laws of another jurisdiction would be required thereby.

Certain Definitions

Set forth below is a summary of certain of the defined terms used in the Indenture. Reference is made to the Indenture for the full definition of all such terms.

2007 Convertible Notes means those certain 3% convertible senior subordinated notes due 2016 in the aggregate principal amount of $150.0 million issued by the Issuer to certain holders thereof under that certain Indenture between the Issuer and U.S. Bank National Association, as trustee, dated as of May 14, 2007.

2009 Senior Subordinated Notes means, to the extent that any such senior subordinated notes remain outstanding on or following the Issue Date, those certain 9.00% senior subordinated notes due 2016 issued by the Issuer to certain holders thereof under the 2009 Senior Subordinated Notes Indenture.

2009 Senior Subordinated Notes Indenture means, to the extent that any 2009 Senior Subordinated Notes remain outstanding on or following the Issue Date, that certain Indenture between the Issuer and U.S. Bank National Association, as trustee, dated as of May 12, 2009, as amended, supplemented and modified by that certain First Supplemental Indenture among the Issuer, the guarantors named therein and U.S. Bank National Association, as trustee, dated as of May 12, 2009, as further amended, supplemented and modified to date and as may be further amended, supplemented and modified.

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2010 Senior Subordinated Notes means those certain 8.625% senior subordinated notes due 2018 issued by the Issuer to certain holders thereof under the 2010 Senior Subordinated Notes Indenture.

2010 Senior Subordinated Notes Indenture means that certain Indenture between the Issuer and U.S. Bank National Association, as trustee, dated as of May 12, 2009, as amended, supplemented and modified by that certain Ninth Supplemental Indenture among the Issuer, the guarantors named therein and U.S. Bank National Association, as trustee, dated as of September 21, 2010, as further amended, supplemented and modified to date and as may be further amended, supplemented and modified.

Acquired Indebtedness means (1) with respect to any Person that becomes a Restricted Subsidiary after the Issue Date, Indebtedness of such Person and its Subsidiaries existing at the time such Person becomes a Restricted Subsidiary that was not incurred in connection with, or in contemplation of, such Person becoming a Restricted Subsidiary and (2) with respect to the Issuer or any Restricted Subsidiary, any Indebtedness of a Person (other than the Issuer or a Restricted Subsidiary) existing at the time such Person is merged with or into, or consolidated with, the Issuer or a Restricted Subsidiary, or Indebtedness expressly assumed by the Issuer or any Restricted Subsidiary in connection with the acquisition of any Person or any asset or assets from another Person, which Indebtedness was not, in any case, incurred by such other Person in connection with, or in contemplation of, such merger, consolidation or acquisition.

Affiliate of any Person means any other Person which directly or indirectly controls or is controlled by, or is under direct or indirect common control with, the referent Person. For purposes of the covenant described under Certain Covenants Limitations on Transactions with Affiliates, Affiliates shall be deemed to include, with respect to any Person, any other Person (1) which beneficially owns or holds, directly or indirectly, 10% or more of any class of the Voting Stock of the referent Person, (2) of which 10% or more of the Voting Stock is beneficially owned or held, directly or indirectly, by the referenced Person or (3) with respect to an individual, any immediate family member of such Person. For purposes of this definition, control of a Person shall mean the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and controlling, controlled by, and under common control shall have correlative meanings.

amend means to amend, supplement, restate, amend and restate or otherwise modify; and amendment shall have a correlative meaning.

Applicable Premium means, with respect to the principal amount of any Note to be redeemed on any redemption date, the greater of:

(1) 1.0% of the principal amount (or portion thereof) of such Note to be redeemed; and

(2) the excess, if any, of (a) the present value at such redemption date of (i) the redemption price of such Note (or portion of the principal amount thereof to be redeemed) at June 15, 2016 (such redemption price being set forth in the table appearing above in Redemption Optional Redemption), *plus* (ii) all required interest payments due on such Note (or portion of the principal amount thereof to be redeemed) through June 15, 2016 (excluding accrued but unpaid interest to such redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date *plus* 50 basis points; over (b) the then outstanding principal amount (or portion thereof) of such Note to be redeemed.

asset means any asset or property.

Asset Acquisition means:

(1) an Investment by the Issuer or any Restricted Subsidiary of the Issuer in any other Person if, as a result of such Investment, such Person shall become a Restricted Subsidiary of the Issuer, or shall be merged with or into the Issuer or any Restricted Subsidiary of the Issuer; or

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(2) the acquisition by the Issuer or any Restricted Subsidiary of the Issuer of all or substantially all of the assets of any other Person or any division or line of business of any other Person.

Asset Sale means any sale, conveyance, transfer, lease, assignment, license or other disposition on or after the Issue Date by the Issuer or any Restricted Subsidiary to any Person other than the Issuer or any Restricted Subsidiary (including by means of a Sale and Leaseback Transaction or a merger or consolidation) (collectively, for purposes of this definition, a transfer), in one transaction or a series of related transactions, of any assets of the Issuer or any of its Restricted Subsidiaries other than in the ordinary course of business. For purposes of this definition, the term Asset Sale shall not include:

(1) transfers of cash or Cash Equivalents;

(2) transfers of assets (including Equity Interests) that are governed by, and made in accordance with, the covenant described under Certain Covenants Limitations on Mergers, Consolidations, Etc.;

(3) Permitted Investments, Restricted Payments permitted under the covenant described under Certain Covenants Limitations on Restricted Payments and transfers that would constitute Restricted Payments but for the exclusions in clauses (1) and (2) of the definition thereof; *provided*, *however*, that any sale, conveyance, contribution, transfer, lease, assignment, license or other disposition of assets by the Issuer or any of its Restricted Subsidiaries to any Health Management Joint Venture pursuant to clause (13) of the definition of Permitted Investments in connection with the creation thereof shall be deemed to be an Asset Sale for purposes of this definition;

(4) the creation or realization of any Permitted Lien;

(5) transfers of damaged, worn-out or obsolete equipment or assets that, in the Issuer s reasonable judgment, are no longer used or useful in the business of the Issuer or the Restricted Subsidiaries;

(6) any license of intellectual property not otherwise in the ordinary course of business, other than the license of all or substantially all of the rights associated with any intellectual property owned or controlled by the Issuer or any of the Restricted Subsidiaries if (i) such rights are used or could be used in a line of business then being conducted by the Issuer or any of the Restricted Subsidiaries and such rights and line of business are material to the business of the Issuer and the Restricted Subsidiaries taken as a whole, as reasonably determined by the Issuer, (ii) such license is for all or substantially all of the remaining contractual or useful life of such intellectual property, whichever is shorter, determined as of the date such license is granted, and (iii) the Fair Market Value of such license, together with that of any other such licenses meeting the criteria in clauses (i) and (ii) (with the Fair Market Value of any such license being determined at the time thereof and without regard to subsequent changes in value), exceeds $25.0 million in any fiscal year of the Issuer; and

(7) any transfer or series of related transfers that, but for this clause, would be Asset Sales, if after giving effect to such transfers, the aggregate Fair Market Value of the assets transferred in such transaction or any such series of related transactions does not exceed, in the aggregate with all other such transactions or series of related transactions (with the Fair Market Value of any such transaction being determined at the time thereof and without regard to subsequent changes in value), $25.0 million in any fiscal year of the Issuer.

Attributable Indebtedness, when used with respect to any Sale and Leaseback Transaction, means, as at the time of determination, the present value (discounted at a rate equivalent to the Issuer s then-current weighted average cost of funds for borrowed money as at the time of determination, compounded on a semi-annual basis) of the total obligations of the lessee for rental payments during the remaining term of the lease included in any such Sale and Leaseback Transaction.

Bankruptcy Law means Title 11 of the United States Code, as amended, or any similar federal or state law for the relief of debtors.