



## Part 1 Overview

### Ceva Group PLC

- \$625 million 11 1/2% Junior Priority Senior Secured Notes due 2018

### Issue Date – 24 March 2010

A public limited company incorporated under the laws of England and Wales

Summary based on Final Confidential [Offering Memorandum](#) dated 10 March 2010

High Yield incurrence package favorable to the Issuer and the Sponsors  
Certain covenants suspended on achievement of investment grade status.

The notes were issued to refinance Ceva's Second-Priority Senior Secured Notes in order to extend the Issuer's debt maturity profile. The Issuer also executed private exchange offers with its private equity shareholder, Apollo Global Management LLC, to extend the maturities to no earlier than 30 June 2018 of certain notes and loans held by Apollo.

The Issuer has €1,574 in Senior Secured Indebtedness, €1,077 secured by a Lien senior to the Notes, and \$702 of the Notes; €949 Senior Indebtedness not secured; and €138 of Subordinated Indebtedness. As of year-end, the Issuer had PPE with a book value of €339 million and intangible assets of €537 million.

The Guarantors represented, as of 31 December 2009, 58% of total revenue before intercompany eliminations, 50% of total EBITDA before specific eliminations and 28% of total EBITDA after specific eliminations.  
Note:

- Limitation on Indebtedness is qualified by substantial carve outs
- The definition of Change of Control does not include insolvency events or changes in directors
- Holders of the notes may be deemed to have an unsecured claim to the extent that the Issuer's obligations in respect of the notes exceed the fair market value of the collateral securing the notes. As a result, holders of the notes that have a security interest in collateral with a value equal or less than their pre-bankruptcy claim will not be entitled to post-petition interest under the bankruptcy code.
- It is possible that a bankruptcy court might find that the notes are under-collateralized, in which case the claims in the proceeding with respect to the notes would be bifurcated between a secured claim and an unsecured claim, and the unsecured claim would not be entitled to the benefits of security in the collateral

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## **The Guarantor/Parent**

Parent: No parent guarantee provided

Guarantors: The Notes will be guaranteed on a senior basis by the same existing and future wholly owned subsidiaries that guarantee the Senior Secured Facilities. The Guarantors are located in Australia, Belgium, Brazil, the Cayman Islands, Canada, England and Wales, Germany, Luxembourg, The Netherlands, Hong Kong, and California, Delaware and Texas in the United States.

The Guarantors represented, as of 31 December 2009, pro forma for the transactions, 76% of total assets after intercompany eliminations; 65% of property, plant and equipment, 94% of inventory, 53% of accounts receivable before intercompany eliminations, 91% of long-term debt before intercompany eliminations, 58% of total revenue before intercompany eliminations, 50% of total EBITDA before specific eliminations and 28% of total EBITDA after specific eliminations.

Guarantee may be released and additional guarantees may be provided in certain circumstances

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## **The Notes and coupons**

### **Quantum and currency**

\$625 million

### **Stated ranking**

Senior

### **Issue Price**

99.365% (plus accrued and unpaid interest from the issue date)

### **Maturity**

April 1, 2018 (the "Initial Maturity Date"), provided that, if on 15 February 2017, the aggregate principal amount of Indebtedness under the Holdco PIK Debt Instrument is greater than €75 million and the other Indebtedness outstanding on the Issue Date has not been repaid in full or refinanced in full with Indebtedness having a Weighted Average Life to Maturity at the time such Indebtedness is incurred that is not earlier than 90 days after the Initial Maturity Date, the Notes will mature on 1 March 2017.

### **Coupon**

11.5%

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## **Security**

### **Summary of security package for Notes**

The Notes are secured by security interests in 100% of the Capital Stock of certain existing and future subsidiaries of the Issuer that are owned directly by the Issuer or any note guarantors, substantially all of the other property and assets, in each case, that are held by the Issuer or any of the guarantors, to the extent that such assets secure the first-priority lien obligations under our Senior Secured Facilities and to the extent that a junior priority security interest is able to be granted or perfected therein.

As of 31 December 2009, the Company had property, plant and equipment with a book value of €339 million and intangible assets (excluding goodwill) with a book value of €537 million. In addition, the Company had current assets, consisting mainly of accounts receivable, some of which will secure the Notes. Note that the Company operates an "asset-light" operating model across all its business units, with third-parties providing the majority of the physical transportation equipment and warehousing assets that it manages and uses for the benefit of its customers.

The Notes will be guaranteed on a senior basis by the same existing and future wholly owned subsidiaries that guarantee the Senior Secured Facilities.

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### Minimum denomination

\$75,000 plus integral multiples of \$1,000 in excess thereof

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### Governing law

Notes, guarantees, indenture, intercreditor agreements and security documents: the laws of the State of New York

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### Purpose of the issue / use of proceeds

The proceeds of the Issue funded the Cash Debt Tender, which is the Company's offer to purchase the 10% Second-Priority Notes and 12% Second-Priority Notes, and related consent solicitation.

See "*Use of Proceeds*" (page 49) of the [Offering Memorandum](#)

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### Ranking with other debt arrangements

The Notes will be the Issuer's senior secured obligations and will:

- rank **senior in right of payment** to existing and future debt and other obligations that are, by their terms, expressly subordinated in right of payment to the Notes, including **the Senior Subordinated Notes**;
- rank **equally in right of payment** to all existing and future senior debt and other obligations that are not, by their terms, expressly subordinated in right of payment to the Notes, including **the Senior Secured Facilities, the First-and-a-Half Priority Notes, the Second-Priority Notes, the Senior Notes and the Senior Unsecured Facility**;
- be **effectively subordinated in right of payment** to existing and future debt **secured by a senior priority lien** (including the obligations under **the Senior Secured Facilities and the First-and-a-Half Priority Notes**), to the extent of the value of the assets securing such debt, and be **structurally subordinated to all obligations of each of the Issuer's subsidiaries that is not a guarantor of the Notes**;
- be **effectively senior in right of payment** to all existing and future debt **secured by a junior priority lien and unsecured senior debt and other unsecured obligations** (including **the Senior Notes, the Senior Unsecured Facility and the Second-Priority Notes** (following the consummation of the Cash Debt Tender)), in each case, to the extent of the value of the assets securing the Notes.

The guarantees will be senior secured obligations of the guarantors and will:

- rank **senior in right of payment** to all of the applicable guarantors' existing and future debt and other obligations that are, by their terms, expressly subordinated in right of payment to the guarantees, including such guarantors' guarantee under **the Senior Subordinated Notes**;
- rank **equally in right of payment** to all all of the applicable guarantors' existing and future senior debt and other obligations that are not, by their terms, expressly subordinated in right of payment to the Notes, including such guarantors' guarantee under **the Senior Secured Facilities, the First-and-a-Half Priority Notes, the Second-Priority Notes, the Senior Notes and the Senior Unsecured Facility**;
- be **effectively subordinated in right of payment** to all of the applicable guarantors' existing and future debt **secured by a senior priority lien** (including such guarantors' guarantee under **the Senior Secured Facilities and the First-and-a-Half Priority Notes**), to the extent of the value of the assets securing such debt, and be

**structurally subordinated to all obligations of each of such guarantor's subsidiaries that is not a guarantor of the Notes;**

- **be effectively senior in right of payment** to all of the applicable guarantors' existing and future debt **secured by a junior priority lien and unsecured senior debt and other unsecured obligations** (including such guarantors' guarantee under **the Senior Notes, the Senior Unsecured Facility and the Second-Priority Notes** (following the consummation of the Cash Debt Tender)), in each case, to the extent of the value of the assets securing the Notes.

See "**Ranking**" (page 97) of the [Offering Memorandum](#)

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### **Listing/Trading**

Official List of the Irish Stock Exchange and the Global Exchange Market of the Irish Stock Exchange

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### **Financial Guarantor/ Monoline**

Not applicable

## **Part 2: Key provisions: Interest, Maturity, Repayment, Prepayment, Default**

### **Interest**

#### **Basis of interest**

Interest will accrue at the rate of 11.5% per annum

#### **Basis of interest accrual**

- Interest payable in arrears,
- No payment in kind provisions

#### **Timing of interest payments**

Interest payment dates April 1 and October 1  
Interest is payable semi-annually in arrears

#### **First interest payment date**

October 1, 2010

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### **Maturity**

April 1, 2018 (the "Initial Maturity Date"), provided that, if on 15 February 2017, the aggregate principal amount of Indebtedness under the Holdco PIK Debt Instrument is greater than €75 million and the other Indebtedness outstanding on the Issue Date has not been repaid in full or refinanced in full with Indebtedness having a Weighted Average Life to Maturity at the time such Indebtedness is incurred that is not earlier than 90 days after the Initial Maturity Date, the Notes will mature on 1 March 2017.

The payment will be a bullet payment

There is no provision for a sinking fund

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### **Financial triggers to default (if any)**

Non-payment; cross payment default; cross acceleration

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## Mandatory Prepayment

### Change of Control

On a Change of Control, each holder of Notes will have the right to require the Issuer to repurchase all or a portion the Notes at 101% of their principal amount plus accrued and unpaid interest.

Change of Control includes:

- Disposition of substantially all of the properties or assets of the Issuer and its Subsidiaries other than to the Permitted Holders; or
- A person or group of persons other than a Permitted Holder owning more than 50% of the Voting Stock of the Issuer.

**"Permitted Holder"** means (i) the Sponsors (Apollo Management, L.P., and any of its Affiliates and any person who forms a group with any Apollo Sponsors; provided that any Apollo Sponsor (x) owns a majority of the voting power and (y) controls a majority of the Board of Directors of the Issuer), (ii) the Management Group, (iii) TNT N.V. and its Affiliates, (iv) AlInvest Partners Beheer 2006 Ltd and its Affiliates, (v) AAA Guarantor Co-Invest VI, L.P. and its Affiliates.

In the event that at the time of such Change of Control the terms of the Bank Indebtedness restrict or prohibit the repurchase of the Notes pursuant to the Change of Control covenant, then prior to the mailing of a notice to holders, but in any event within 45 days following any Change of Control, the Issuer shall: (1) repay in full all Bank Indebtedness or, if doing so would permit the making of the Change of Control Offer, offer to repay in full all Bank Indebtedness and repay the Bank Indebtedness of each lender that has accepted such an offer; or (2) obtain the requisite consent under the agreements governing the Bank Indebtedness to permit the repurchase of the Notes.

- The Company will not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in compliance with the applicable requirements set forth in the Indenture, or
- a holders of majority in principal amount of the Notes waive or modify the requirement of the Company's to make a Change of Control Offer, prior to the occurrence of a Change of Control

A Change of Control Offer may be made in advance of a Change of Control, conditioned upon the consummation of such Change of Control, if a definitive agreement is in place for the Change of Control at the time the Change of Control Offer is made.

See ***"Repurchase at the Option of Holders — Change of Control"*** (page 123) in the [Offering Memorandum](#)

### Other Mandatory prepayment

Following an Asset Sale: Where the proceeds of an asset sale exceed €20 million and where such proceeds are not used to (i) repay certain categories of indebtedness, (ii) invest in businesses, assets or property, or capital expenditures, in each case used or useful in a Similar Business, or (iii) invest in businesses, properties or assets that replace the properties or assets that are the subject of the Asset Sale within 15 months (with 9 additional months provided for should a commitment to apply asset sale proceeds in the case of (ii) or (iii) be cancelled).

Note the following carve-outs from the definition of "Asset Sale":

- Any Restricted Payment or Permitted Investment permitted under the Restricted Payment covenant;
- Any disposition or sale of assets or issuance or sale of Equity Interests of any Restricted Subsidiary with an aggregate FMV of less than €7.5 million;
- The sale of any property in a Sale/Leaseback Transaction within six months or the acquisition of such property

See "*Certain Covenants – Asset Sales*" (page 138) in the [Offering Memorandum](#) and the definition of "Asset Sale" (page 162)

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### Early redemption

#### Redemption at the Option of the Issuer on or after 1 April 2014

- On 1 April 2014 and during the 12 month period commencing on each of the dates set forth below, the Issuer may, at its option may redeem the Notes at the following prices:
  - 2014: 105.750%
  - 2015: 102.875%
  - 2016 and thereafter: 100%in each case plus accrued interest

#### Redemption at the Option of the Issuer following Equity Offering

At any time prior to 1 April 2014, with the net cash proceeds of one or more Equity Offerings (excluding Disqualified Stock) (1) by the Issuer, (2) by any direct or indirect parent of the Issuer to the extent the net cash proceeds are contributed to the common equity capital of the Issuer, the Issuer may redeem up to 40% of the aggregate principal amount of the Notes may be redeemed, at a redemption price of 111.500%, provided that:

- at least 60% of the aggregate principal amount of the Notes originally issued remains outstanding after the redemption; and
- the redemption occurs within 90 days of such offering

#### Redemption at the Option of the Issuer prior to 1 April 2014 – Make Whole redemption:

At any time prior to 1 April 2014 the Issuer may redeem at the Issuer's option in whole but not in part the Notes at any time on 30 to 60 days notice, at 100% of the principal plus the Applicable Premium and any accrued interest.

See "*Optional Redemption*" (page 113) and the definition of "*Applicable Premium*" (page 162) in the [Offering Memorandum](#)

#### Redemption for Taxation Reasons

The Issuer may redeem the Notes, in whole but not in part, at its discretion at any time on 30 to 60 days notice, at 100% of the principal plus accrued and unpaid interest if Issuer were required to pay any additional amounts as a result in the change of any applicable tax legislation or change in official written interpretation or application of such legislation

See "*Redemption for Taxation Reasons*" in the Preliminary [Offering Memorandum](#) (page 115)

## Part 3: The Covenant Package

### Nature of High Yield Incurrence Package

- High Yield incurrence package favorable to the Issuer and the Sponsors
- Certain covenants suspended on achievement of investment grade status including:
  - Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock;
  - Limitation on Restricted Payments;
  - Dividend and Other Payment Restrictions Affecting Subsidiaries;
  - Asset Sales;
  - Transactions with Affiliates
  - Future Note Guarantors;
  - Security
  - Impairment of Security Interests;
  - After-Acquired Property;
  - Clause (4) of the first paragraph of "Merger, Amalgamation, Consolidation or Sale of All of Substantially All Assets"

See "*Covenant Fall-Away*" (page 146) in the [Offering Memorandum](#)

- See detail on each covenant below

### Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock

The Issuer will not, and will not permit its Restricted Subsidiaries to Incur Indebtedness or issue any shares of Disqualified stock; Issuer will not permit any Restricted Subsidiaries (other than a Note Guarantor) to issue any shares of Preferred Stock, except as set forth below (note the Issuer cannot issue shares of Preferred Stock):

- Fixed Charge Coverage Ratio test (4 quarter period; 2.0:1.0; Ratio Debt incurred by Restricted Subsidiaries that are not Note Guarantors limited to €150 million (the "**Non-Guarantor Exception**")
- Permitted debt standard (includes Acquired Debt)
- Indebtedness under Credit Facilities permitted up to €1,005 million plus an aggregate additional principal amount outstanding at any one time that does not cause the Secured Indebtedness Leverage Ratio of the Issuer to exceed 3.0 to 1.0
- Indebtedness, Disqualified Stock or Preferred Stock of (x) the Issuer or any of its Restricted Subsidiaries Incurred to finance an acquisition, or (y) an acquired Restricted Subsidiary permitted if either
  - the Issuer would have been able to incur €1.00 of additional indebtedness after giving effect to the incurrence or
  - the Fixed Charge Coverage Ratio would not be less than it was immediately prior to giving effect to such acquisition or other transaction
- Indebtedness or Disqualified Stock of the Issuer or any Restricted Subsidiary and Preferred Stock of any Restricted Subsidiary representing Capital Lease Obligations or indebtedness to finance purchase, lease, construction or improvement of property permitted up to the greater of (a) an aggregate amount that would not cause the Senior Secured Leverage Ratio to exceed 3.0 to 1.0 or (b) the greater of €100 million and 4.25% of Total Assets
- certain hedging obligations not for speculative purposes
- Indebtedness incurred in a Qualified Receivables Financing by a Receivables Subsidiary without recourse to the Issuer or any Restricted Subsidiary (except for Standard Securitization Undertakings)

- Indebtedness of a Restricted Subsidiary of the Issuer that is not a Note Guarantor, together with indebtedness Incurred by non-Guarantors under the general basket (below) and the Non-Guarantor Exception (above), not to exceed €100.0 million or 4.25% of Total Assets at the time of Incurrence
- Indebtedness in respect of joint ventures not to exceed the greater of €50 million or 2% Total Assets
- To the extent not used for Restricted Payments or Permitted Investments, Indebtedness, Disqualified Stock or Preferred Stock not to exceed at any one time outstanding 200% of the net cash proceeds received by the Issuer and the Restricted Subsidiaries since immediately after the "**Reference Date**" (**6 December 2006**) from the issue or sale of Equity Interests or Subordinated Shareholder Funding of the Issuer or any direct or indirect parent entity of the Issuer, or cash contributed to the capital of the Issuer
- Indebtedness issued to current or former officers, directors and employees of the Issuer or any Restricted Subsidiary incurred to finance the purchase or redemption of Equity Interests of the Issuer or any of its direct or indirect parent entities in the amounts described below in "Limitation on Restricted Payments"
- Indebtedness or Disqualified Stock of the Issuer or any Restricted Subsidiary and preferred stock of any Restricted Subsidiary permitted not to exceed the greater of €100 million and 4.25% of Total Assets

See "**Certain Covenants – Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock**" (page 126) in the [Offering Memorandum](#)

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#### Limitation on Liens

- Standard
- Applies to the Issuer and its Restricted Subsidiaries
- Note carve outs include:
  - (A) Liens on assets of Restricted Subsidiaries that are not Guarantors securing Indebtedness of such Restricted Subsidiary permitted to be incurred by the Indebtedness covenant; AND
  - (B) Liens securing an aggregate principal amount of Bank Indebtedness, Indebtedness under agreements governing Secured Bank Indebtedness, and certain Hedging Obligations not to exceed the greater of (y) €1,005 million plus an aggregate additional principal amount outstanding at any one time and (z) an aggregate amount that does not cause the Secured Indebtedness Leverage Ratio of the Issuer to exceed 3.0 to 1.0; AND
  - (C) Liens securing Indebtedness permitted to be incurred under the (x) purchase money / CLO basket (greater of (a) an aggregate amount that would not cause the Senior Secured Leverage Ratio to exceed 3.0 to 1.0 or (b) the greater of €100 million and 4.25% of Total Assets), (y) basket for Indebtedness of Restricted Subsidiaries that are not Note Guarantors (greater of (a) an aggregate amount that would not cause the Senior Secured Leverage Ratio to exceed 3.0 to 1.0 or (b) the greater of €100 million and 4.25% of Total Assets), and (z) general debt basket (greater of (a) an aggregate amount that would not cause the Senior Secured Leverage Ratio to exceed 3.0 to 1.0 or (b) the greater of €100 million and 4.25% of Total Assets); *provided that* the amount of Indebtedness incurred pursuant to (x) that is secured by a Permitted Lien (excluding CLOs) shall not exceed (a) €400 million if the Senior Secured Leverage Ratio would be no greater than 3x pro forma, or otherwise (b) €50 million at any one time (the "PM Lien Amount") (provided that such proviso will not prohibit the incurrence of a Permitted Lien under (C) as a result of a reclassification of \$425 million of Bank Indebtedness outstanding on August 13, 2007 from the Credit Facility basket to the purchase

money / CLO basket (which transaction was done prior to the Issue Date in connection with the Transactions);

- o *provided further*, that any refinancing, etc., of any unsecured Indebtedness or any Indebtedness secured by a Lien that is pari passu or junior to the Lien securing the Notes shall not be permitted to have priority over or rank ahead of the Lien securing the Notes UNLESS (X) pro forma (I) the Senior Secured Leverage Ratio would not be greater than 3x or (II) if clause (I) is not applicable, the amount of Indebtedness (excluding CLOs) secured by such Lien does not exceed the PM Lien Amount, or (Y) such new Lien is a Lien permitted by clause (B) above that secures up to €186 million of revolving credit loans or commitments under the Credit Agreement;
- o Liens on accounts receivable and related assets incurred in connection with any Qualified Receivables Financing
- o General basket of €20 million

See "**Certain Covenants – Liens**" (page 143) and the definition of "**Permitted Liens**" (page 178) in the Preliminary [Offering Memorandum](#)

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### Limitation on Restricted Payments

Applies to the Issuer and its Restricted Subsidiaries.

- Basis of Restricted Payments:
  - o A default has not occurred prior to or as a result of the Restricted Payment;
  - o The Issuer is able to incur an additional €1.00 of indebtedness under the Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock covenant's Fixed Charge Coverage Ratio test (pro forma 2.0:1.0); and
  - o The aggregate amount of Restricted Payments (including Restricted Payments permitted by clauses (1), (4) (only to the extent of one-half of the amounts paid pursuant to such clause), (6), (8), of the carve-outs listed beginning on page 133 of the [Offering Memorandum](#)) does not exceed the "Cumulative Credit":
    - 50% of Consolidated Net Income since end of the second fiscal quarter after the Reference Date; *plus*
    - 100% of the aggregate net cash proceeds and fair market value of property or assets or marketable securities received from an issue or sale of Equity Interests of the Issuer or Subordinated Shareholder Funding of the Issuer, including upon exercise of warrants or options; *plus*
    - 100% of contributions to the capital of the Issuer in cash and FMV of property other than cash after the Reference Date; *plus*
    - the principal amount of any Indebtedness, liquidation preference of Disqualified Stock, which has been converted or exchanged for Equity Interests in or Subordinated Shareholder Funding of the Issuer or any direct or indirect parent of the Issuer; *plus*
    - 100% of aggregate amount received with respect to (i) dispositions of Restricted Investments sold after the Reference Date, (ii) the sale of capital stock of any Unrestricted Subsidiary, or (iii) a distribution or dividend from an Unrestricted Subsidiary; *plus*
    - the FMV of an Unrestricted Subsidiary redesignated as a Restricted Subsidiary (determined in good faith by the board or, if over 20 million, by an independent financial advisor)

*provided that*, until a Qualifying IPO, unless the Senior Secured Leverage Ratio is less than or equal to 5x, no such RPs will be made to any direct or indirect parent of the Issuer or any Affiliate of such parent (such proviso will not apply to payments otherwise permitted under the RP basket necessary to pay the principal amount of loans outstanding on the Issue Date when due at maturity of the Holdco PIK Debt Instrument, or to RPs to purchase, retire, redeem, etc., Equity Interests of the Issuer of any Subsidiary of the Issuer issued to employees, directors or consultants of the Issuer or any direct or indirect parent of the Issuer)

- Note carve outs include (a non exhaustive list; see [Offering Memorandum](#) for full list):
  - repurchase of Equity Interests held by employees, directors or consultants pursuant to stock option plans or similar agreements not to exceed €15 million each calendar year commencing with 2006 (with unused amounts carried to the two succeeding calendar years to a maximum of €30 million so carried), *plus* amounts not to exceed (a) the cash proceeds received from the sale of Equity Interests to management, directors or consultants after the Reference Date (provided amounts so used will not increase the RP basket) and (b) the cash proceeds of key man insurance policies received by the Issuer, its direct or indirect parents, or its Restricted Subsidiaries
  - the declaration and payment of dividends to holders of Designated Preferred Stock issued after the Reference Date, provided that pro forma for such issuance the Fixed Charge Coverage Ratio would be at least 2x and the aggregate amount of dividends so paid do not exceed the aggregate cash proceeds actually received by the Issuer from any such sale or issuance of Designated Preferred Stock or Subordinated Shareholder Funding after the Reference Date
  - investments in Unrestricted Subsidiaries having an FMV not to exceed the greater of €25 million and 1.0% of Total Assets at the time of such Investment;
  - payment of dividends on the Issuer's common stock of up to 6% per annum of the proceeds received by the Issuer from any public offering of common stock of the Issuer or any direct or indirect parent of the Issuer;
  - RPs made with Excluded Contributions;
  - NOTE certain RPs cannot be made, until the completion of a Qualifying IPO, unless the Senior Unsecured Leverage Ratio is less than or equal to 5x (except for payments on the Holdco PIK Debt Instrument).
- Permitted Investments include:
  - advances to officers, directors or employees not to exceed €15 million at any time outstanding
  - any investment in a Similar Business having an FMV not to exceed the greater of €150 million and 7.5% of Total Assets at any time outstanding
  - general basket not to exceed the greater of €100 million and 5% Total Assets at any time outstanding
  - Investments in JVs not to exceed €50 million at any time outstanding
  - NOTE cross-reference to certain Investments made in compliance with the Transactions with Affiliates covenant such that these qualify as Permitted Investments without the need for separate baskets in the Permitted Investments definition

See ***"Certain Covenants – Restricted Payments"*** (page 131) and the definition of ***"Permitted Investments"*** (page 176) in the Preliminary [Offering Memorandum](#)

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### **Limitation on restrictions on distributions from Restricted Subsidiaries**

- Standard
- Note that the following are carveouts to what constitutes an encumbrance or restriction:
  - any Restricted Investment not prohibited by the Restricted Payments covenant and any Permitted Investment
  - encumbrances and restrictions arising pursuant to any agreement or instrument relating to Indebtedness permitted to be Incurred by the Limitation on Indebtedness covenant (i) if such restrictions are not materially less favorable than those contained in the Credit Agreement as of the Issue Date, or (ii) is not materially less advantageous than is customary in comparable financings and (x) the Issuer determines that such restriction will not prevent the Issuer from making principal or interest payments on the Notes as and when they come due or (y) such restriction applies only if a default occurs in respect of a payment of financial covenant relating to such indebtedness

See ***“Certain Covenants – Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries”*** (page 137) in the Preliminary [Offering Memorandum](#)

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### **Limitation on Mergers, Consolidation and Asset Sales**

- Standard
- Issuer and Note Guarantors are restricted but with standard carve outs, including that the obligations under the Notes and indenture or Guarantees as applicable must be expressly assumed by the surviving entity
- After giving pro forma effect, the Successor Company would have been able to incur at least €1 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio or the Fixed Charge Coverage Ratio would be no greater than immediately prior to such transaction
- Note carveout (under certain conditions) for merger and consolidation transactions between Issuer, Restricted Subsidiaries and Note Guarantors, provided that any such transfer from a Note Guarantor to a Restricted Subsidiary shall not exceed 5.0% of the consolidated assets of the Issuer and the Note Guarantors as shown on the most recent available balance sheet pro forma

See ***“Merger, Consolidation or Sale of All or Substantially All Assets”*** (page 148) in the [Offering Memorandum](#)

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### **Limitation on Affiliate Transactions**

Applies to the Issuer and its Restricted Subsidiaries.

- General threshold for transactions: €10 million
- Threshold for board approval: €20 million
- Threshold for fairness opinion of an independent appraiser: N/A
- Note carve outs include:
  - (x) entering into any agreement for payment of management, consulting, monitoring, etc., fees to the Sponsors in any fiscal year not to exceed the greater of (A) €3.0 million and (B) 1.5% of EBITDA of the Issuer and its Restricted Subsidiaries for the immediately preceding financial year, plus out-of-pocket expense reimbursement, provided that payments not made in any fiscal year commencing in 2006 may be carried forward to the two following fiscal years and (y) the payment of the present value of all amounts payable pursuant to any agreement described above in connection with the termination of such agreement;
  - Restricted Payments and Permitted Investments;
  - Transactions in which the Issuer or any Restricted Subsidiary delivers to the Trustee an opinion of an IFA that such transaction

- is fair to the Issuer or such Restricted Subsidiary from a financial point of view or is at arms length
- o Payments or loans to directors, employees or consultants approved by a majority of the board of directors of the Issuer in good faith
  - o Issuance of Equity Interest of the Issuer of Subordinated Shareholder Funding to any Person;
  - o Any transaction effected as part of a Qualified Receivables Financing

See ***"Certain Covenants - Transactions with Affiliates"*** (page 141) in [Offering Memorandum](#)

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### **Change of Control**

Triggers:

- Disposition of substantially all of the properties or assets of the Issuer and its Subsidiaries other than to the Permitted Holders; or
- A person or group of persons other than a Permitted Holder owning more than 50% of the Voting Stock of the Issuer.

**"Permitted Holder"** means (i) the Sponsors (Apollo Management, L.P., and any of its Affiliates and any person who forms a group with any Apollo Sponsors; provided that any Apollo Sponsor (x) owns a majority of the voting power and (y) controls a majority of the Board of Directors of the Issuer), (ii) the Management Group, (iii) TNT N.V. and its Affiliates, (iv) AlInvest Partners Beheer 2006 Ltd and its Affiliates, (v) AAA Guarantor Co-Invest VI, L.P. and its Affiliates.

See ***"Repurchase at the Option of Holders - Change of Control"*** (page 123) in the [Offering Memorandum](#)

## **Part 4: Deal Structure, Ownership Structure And Local Law Issues**

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### **Incorporation of Issuer**

- England and Wales
  - The Issuer is incorporated as a public limited company
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### **Incorporation of Hold Co/Guarantor**

The Issuer is incorporated in England and Wales.

The Guarantors are located in Australia, Belgium, Brazil, the Cayman Islands, Canada, England and Wales, Germany, Luxembourg, The Netherlands, Hong Kong, and California, Delaware and Texas in the United States.

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### **Restricted Subsidiaries**

- A Subsidiary of the Issuer can be designated an Unrestricted Subsidiary if it would not cause a default and certain other conditions are met.
- Unrestricted Subsidiaries are not bound by the covenants

See ***"Definitions – Unrestricted Subsidiary"*** (page 189) of the [Offering Memorandum](#)

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## Additional Guarantees

- Subject to certain exceptions, the Indenture will provide that the Issuer will not permit any of its Restricted Subsidiaries (unless it is a Receivables Subsidiary) that is not a Note Guarantor to guarantee, assume or become liable with respect to (i) any Credit Agreement of the Issuer or any Note Guarantor or (ii) any Public Debt of the Issuer or any Note Guarantor, unless such Subsidiary also provides a guarantee of the Notes.

See "*Certain Covenants – Future Note Guarantors*" (page 153) in the [Offering Memorandum](#)

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## Ownership structure

- The groups structure is set out in *Organizational Structure* (page 8) in the [Offering Memorandum](#)
- 

## Transfer of Assets to Issuer or other structural arrangements

Not applicable

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## Degree of subordination to senior/other debt

The Notes will be the Issuer's senior secured obligations and will:

- rank **senior in right of payment** to existing and future debt and other obligations that are, by their terms, expressly subordinated in right of payment to the Notes, including **the Senior Subordinated Notes**;
- rank **equally in right of payment** to all existing and future senior debt and other obligations that are not, by their terms, expressly subordinated in right of payment to the Notes, including **the Senior Secured Facilities, the First-and-a-Half Priority Notes, the Second-Priority Notes, the Senior Notes and the Senior Unsecured Facility**;
- be **effectively subordinated in right of payment** to existing and future debt **secured by a senior priority lien** (including the obligations under **the Senior Secured Facilities and the First-and-a-Half Priority Notes**), to the extent of the value of the assets securing such debt, and be **structurally subordinated to all obligations of each of the Issuer's subsidiaries that is not a guarantor of the Notes**;
- be **effectively senior in right of payment** to all existing and future debt **secured by a junior priority lien and unsecured senior debt and other unsecured obligations** (including **the Senior Notes, the Senior Unsecured Facility and the Second-Priority Notes** (following the consummation of the Cash Debt Tender)), in each case, to the extent of the value of the assets securing the Notes.

The guarantees will be senior secured obligations of the guarantors and will:

- rank **senior in right of payment** to all of the applicable guarantors' existing and future debt and other obligations that are, by their terms, expressly subordinated in right of payment to the guarantees, including such guarantors' guarantee under **the Senior Subordinated Notes**;
- rank **equally in right of payment** to all of the applicable guarantors' existing and future senior debt and other obligations that are not, by their terms, expressly subordinated in right of payment to the Notes, including such guarantors' guarantee under **the Senior Secured Facilities, the First-and-a-Half Priority Notes, the Second-Priority Notes, the Senior Notes and the Senior Unsecured Facility**;
- be **effectively subordinated in right of payment** to all of the applicable guarantors' existing and future debt **secured by a senior priority lien** (including such guarantors' guarantee under **the Senior Secured Facilities and the First-and-a-Half Priority Notes**), to the

- extent of the value of the assets securing such debt, and be **structurally subordinated to all obligations of each of such guarantor's subsidiaries that is not a guarantor of the Notes**;
- be **effectively senior in right of payment** to all of the applicable guarantors' existing and future debt **secured by a junior priority lien and unsecured senior debt and other unsecured obligations** (including such guarantors' guarantee under **the Senior Notes, the Senior Unsecured Facility and the Second-Priority Notes** (following the consummation of the Cash Debt Tender)), in each case, to the extent of the value of the assets securing the Notes.

See "**Ranking**" (page 97) of the [Offering Memorandum](#)

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### **Position compared to equity**

Not applicable

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### **Intercreditor arrangements**

The trustee is a party to (i) an intercreditor agreement that establishes the relative rights of certain of the Issuer's creditors under its existing and future financing arrangements (and (ii) a lien subordination agreement and intercreditor agreement that establishes the relative rights of the lenders under the Senior Secured Facilities, the holders of the First-and-a-Half Priority Notes and the holders of the notes in the collateral securing the notes.

Under the terms of the First/Junior Intercreditor Agreement, at any time that obligations having the benefit of priority liens on the collateral are outstanding, any actions that may be taken in respect of the collateral, including the ability to cause the commencement of enforcement proceedings against the collateral and to control the conduct of such proceedings, and the approval of amendments to, releases of collateral from the lien of, and waivers of past defaults under, the security documents, will be at the direction of the holders of the obligations secured by the priority liens and neither the trustee nor the collateral agent, on behalf of the holders of the notes, will have the ability to control or direct such actions, even if the rights of the holders of the notes are adversely affected, subject to certain exceptions.

The lenders under the Senior Secured Facilities may cause the collateral agent for such facilities to dispose of, release or foreclose on, or take other actions with respect to, the collateral with which holders of the notes may disagree or that may be contrary to the interests of the holders of the notes.

To the extent collateral is release from securing the Senior Secured Facilities and the First-and-a-Half Priority Notes, the liens on such assets (but not the proceeds therefrom) will also be automatically released.

Except in limited circumstances, if at any time the Senior Secured Facilities and the First-and-a-Half Priority Notes cease to be in effect, the liens securing the notes will also be released and the notes will become unsecured senior obligations.

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### **Standstill Period**

Under the Senior/Subordinated Intercreditor Agreement, the notes will comprise "Secured Senior Debt" along with the Senior Secured Facilities, the First-and-a-Half Priority Notes, and other senior secured indebtedness permitted to be incurred under the terms of the Senior Secured Facilities and the Senior Unsecured Facility and the indentures governing the notes and the Existing Notes. As such, the 179 day standstill period under that agreement does not apply to the notes; rather, it applies to holders of "Subordinated Debt", which is comprised of indebtedness outstanding under the Senior Subordinated Notes and other subordinated indebtedness permitted to be incurred under the various facility agreements and indentures.

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However, the First/Junior Lien Intercreditor Agreement provides that so long as there are amounts outstanding under the Senior Secured Facilities or the First-and-a-Half Priority Notes, the trustee and the collateral agent for the notes will not be permitted to enforce the security interests event if an event of default has occurred and the notes have been accelerated except (a) in any insolvency or liquidation proceeding, to file a claim or statement of interest; or (b) as necessary to take any action to protect or preserve or perfect its rights under the relevant lien.

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### Payment Stop

Under the Senior/Subordinated Intercreditor Agreement, a payment stop is applicable to the holders of Subordinated Debt, but not to holders of the Notes, in the event of a default under designated senior indebtedness.

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### Drag along

Not applicable

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### Other

Not applicable

## Part 5: Security Package

### Security (Assets and/or Guarantees (if any)) for Notes

- The Notes and the Guarantees are secured by security interests in:
  - 100% of the capital stock of certain existing and future subsidiaries of the issuer owned directly by the Issuer or any Note Guarantors, subject to certain exceptions;
  - Substantially all of the other property and assets, in each case, that are held by the Issuer or any of the guarantors, to the extent that such assets secure the first-priority lien obligations under the Senior Secured Facilities and to the extent that a junior priority security interest is able to be granted or perfected therein.
  - As of December 31, 2009, the Issuer and its subsidiaries had property, plant and equipment with a book value of €339 million and intangible assets (excluding goodwill) with a book value of €537 million. In addition, it has current assets, consisting mainly of accounts receivable, some of which will secure the Notes (note that the Issuer can incur debt and secure it on its accounts receivable by way of a Qualified Receivables Financing).
- The Notes are guaranteed on a senior basis by the same existing and future wholly owned subsidiaries that guarantee the Senior Secured Facilities.
  - The Guarantors represented, as of 31 December 2009, pro forma for the transactions, 76% of total assets after intercompany eliminations; 65% of property, plant and equipment, 94% of inventory, 53% of accounts receivable before intercompany eliminations, 91% of long-term debt before intercompany eliminations, 58% of total revenue before intercompany eliminations, 50% of total EBITDA before specific eliminations and 28% of total EBITDA after specific eliminations.
- Guarantees may be released under certain circumstances. The laws of certain jurisdictions may limit the enforceability of certain guarantees (see Local Law Issues, below).

See "[Collateral](#)" (page 12), "[Security](#)" (page 119) and "[Guarantees](#)" (page 10) and "[Note Guarantees](#)" (page 122) in the [Offering Memorandum](#)

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## Senior ranking security package for Senior Facilities

The Senior Secured Facilities and the First-and-a-Half Priority Notes benefit from liens senior in priority to the Notes. On enforcement, the agent in respect of the Senior Secured Facilities will have the ability to control enforcement; upon satisfaction in full of the Senior Secured Facilities, the agent in respect of the First-and-a-Half Priority Notes will control enforcement; upon satisfaction in full of the First-and-a-Half Notes, the trustee will control enforcement (at the direction of the noteholders).

Except in certain limited circumstances, at any time that obligations having the benefit of priority liens on the collateral are outstanding, the holders of the more junior tranche of indebtedness will not be permitted to enforce the security interests even upon an event of default under their respective agreement.

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## Local law issues

The risk factors of the [Offering Memorandum](#) set out local law issues. The summary below is in no way a substitute for the full disclosure made in the [Offering Memorandum](#)

- Security interests governed by German law may be partially released in certain circumstances if the realizable value of the security package at any date after entering into the German law security documents permanently exceeds 110% of the amount of secured obligations.
- Brazilian courts may consider the junior priority security interest in the stock and assets of our Brazilian subsidiaries unenforceable.
- Relevant local insolvency laws may not be as favorable to you as US bankruptcy laws and may preclude holders of notes from recovering payments due.
- US federal and state fraudulent transfer laws permit a court to void the notes and the guarantees and security interests, and, if that occurs, you may not receive any payments on the notes or may be required to return payments made on the notes.
- Enforcing your rights as a holder of the notes or under the guarantees or security documents across multiple jurisdictions may be difficult.
- Enforcement of judgments of US courts predicated upon the civil liability provisions of US securities laws may not be possible in the United States because the Issuer and assets are located outside the United States.

See “Risk Factors” (page 24) and “Service of Process and Enforcement of Civil Liabilities” (page 207) in the [Offering Memorandum](#)

## Part 6: Transfers

### Minimum size

- The Notes will be issued in registered form.
- If definitive Notes are issued, they will be issued only in minimum denominations of \$75,000 principal amount and integral multiples of \$1,000 in excess thereof
- Free transfer under the Listing Rules of the Global Exchange Market
- Transfer subject to the Selling Restrictions including US securities regulations (Rule 144A and Reg S)

See “*Transfer Restrictions*” (page 202) in the [Offering Memorandum](#)

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### Fee

Not applicable

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**Any restrictions**

Not applicable

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**Part 7: Voting Rights****Majority threshold**

- The terms of the Notes may be amended or waived with the consent of the majority of holders in aggregate of the principal amount then outstanding of the Notes (other than as set out in the list of matters requiring 90%)

See "*Amendment and Waiver*" (page 152) in the [Offering Memorandum](#)

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**Issues requiring super majority/ unanimity**

- The consent of at least 90% of the aggregate principal amount of the then outstanding Notes and the consent of each Holder of an affected Note is required to amend: the voting majorities, reduce the rate or extend the time for payment of interest, reduce the principal or change the maturity of the Notes, reduce any redemption premium or timing of redemption, make the note payable in a different currency, expressly subordinate the notes or guarantees other than as permitted by the indenture/intercreditor agreements, impair the right of any holder to receive interest or principal or to sue for enforcement, make changes to the amendment provisions, release guarantors except in accordance with the indenture, make changes to the intercreditor or indenture that effects application of proceeds in a manner adverse to noteholders.

See "*Amendment and Waiver*" (page 152) in the [Offering Memorandum](#)

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**Part 8: Governing Law****Notes, guarantees, indenture, security documents  
intercreditor agreement**

The laws of the State of New York

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**Part 9: Administration Parties****Trustee, registrar, principal paying agent and transfer agent**

The Bank of New York Mellon

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**Irish Paying Agent and Listing Agent**

The Bank of New York Mellon (Ireland) Limited

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**Collateral Agent**

Law Debenture Trust Company

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