

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM S-3  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

ARTHUR J. GALLAGHER & CO.  
(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

6411  
(Primary Standard Industrial  
Classification Code Number)  
2850 Golf Road  
Rolling Meadows, Illinois  
60008-4050  
(630) 773-3800

36-2151613  
(I.R.S. Employer  
Identification No.)

(Address, including zip code, and telephone number, including area code, of registrant’s principal executive offices)

Walter D. Bay, Esq.  
Vice President, General Counsel and Secretary  
Arthur J. Gallagher & Co.  
2850 Golf Road  
Rolling Meadows, Illinois 60008-4050  
(630) 773-3800

(Name, address, including zip code and telephone number, including area code, of agent for service)

COPIES TO:

Andrew L. Fabens, Esq.  
Gibson, Dunn & Crutcher LLP  
200 Park Avenue  
New York, New York 10166  
(212) 351-4034

Approximate date of commencement of proposed sale of the securities to the public: From time to time after this registration statement becomes effective.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. ☐

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. ☒

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. ☒

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of “large accelerated filer,” “accelerated filer,” “smaller reporting company” and “emerging growth company” in Rule 12b-2 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

Large accelerated filer ☒ Accelerated filer ☐  
Non-accelerated filer ☐ Smaller reporting company ☐  
Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of Securities Act. ☐

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered(2)	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee
Debt Securities	(1)	(1)	(1)	(1)
Guarantees	(1)	(1)	(1)	(1)
Common Stock, par value \$1.00 per share	(1)	(1)	(1)	(1)
Preferred Stock, no par value	(1)	(1)	(1)	(1)
Warrants	(1)	(1)	(1)	(1)
Depository Shares(3)	(1)	(1)	(1)	(1)
Purchase Contracts	(1)	(1)	(1)	(1)
Units	(1)	(1)	(1)	(1)
Total	(1)	(1)	(1)	(1)

- (1) The registrant is registering an indeterminate aggregate offering price or number of securities of each identified class, as may from time to time be issued at indeterminate prices. Separate consideration may or may not be received for securities that are issuable on exercise, conversion or exchange of other securities. In accordance with Rules 456(b) and 457(r) of the Securities Act of 1933, as amended, the registrant is deferring payment of the entire registration fee. Pursuant to Rule 457(n) under the Securities Act, where the securities to be offered are guarantees of other securities which are being registered concurrently, no separate fee for the guarantees shall be payable.
- (2) Any securities registered hereunder may be sold separately or as units with other securities registered hereunder.
- (3) Each depository share will be issued under a deposit agreement and will be evidenced by a depository receipt.

PROSPECTUS



**DEBT SECURITIES  
GUARANTEES  
COMMON STOCK  
PREFERRED STOCK  
WARRANTS  
DEPOSITARY SHARES  
PURCHASE CONTRACTS  
UNITS**

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*We may from time to time offer to sell our debt securities, guarantees of debt securities, common stock or preferred stock, either separately or represented by warrants, depositary shares or purchase contracts, as well as units that include any of these securities or securities of other entities. The debt securities may consist of debentures, notes or other types of debt. We may also use this prospectus from time to time to register these securities that may be offered and sold by selling securityholders.*

*Each time we sell securities pursuant to this prospectus, we will provide a prospectus supplement and attach it to this prospectus. The prospectus supplement will contain more specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. This prospectus may not be used to offer or sell these securities without a prospectus supplement describing the method and terms of the offering. You should carefully read this prospectus and any accompanying prospectus supplement, together with the information we incorporate by reference, before you make your investment decision.*

*We may sell these securities on a continuous or delayed basis directly, through agents or underwriters designated from time to time or through a combination of these methods. For additional information on the method of sale, you should refer to the section of this prospectus entitled “Plan of Distribution” on page 10. We reserve the sole right to accept, and together with any agents, dealers and underwriters, reserve the right to reject, in whole or in part, any proposed purchase of these securities. If any agents, dealers or underwriters are involved in the sale of these securities, the applicable prospectus supplement will set forth the names and any applicable commissions or discounts.*

*Our common stock is traded on the New York Stock Exchange under the symbol “AJG.”*

**Investing in these securities involves risks. You should carefully read and consider the risks referenced under “[Risk Factors](#)” beginning on page 3 of this prospectus for a discussion of the factors you should carefully consider, as well as the other information contained in or incorporated by reference in this prospectus or in any accompanying prospectus supplement, in determining whether to invest in these securities.**

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**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

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**The date of this prospectus is March 8, 2021.**

TABLE OF CONTENTS

	<u>Page</u>
<a href="#">ABOUT THIS PROSPECTUS</a>	1
<a href="#">ARTHUR J. GALLAGHER &amp; CO.</a>	1
<a href="#">RISK FACTORS</a>	3
<a href="#">CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS</a>	4
<a href="#">USE OF PROCEEDS</a>	7
<a href="#">SELLING SECURITYHOLDERS</a>	8
<a href="#">DESCRIPTION OF SECURITIES</a>	9
<a href="#">PLAN OF DISTRIBUTION</a>	10
<a href="#">LEGAL MATTERS</a>	11
<a href="#">EXPERTS</a>	11
<a href="#">WHERE YOU CAN FIND MORE INFORMATION</a>	12
<a href="#">INCORPORATION OF CERTAIN INFORMATION BY REFERENCE</a>	12

## ABOUT THIS PROSPECTUS

This prospectus is part of a “shelf” registration statement on Form S-3 that we filed with the Securities and Exchange Commission, or SEC. Under the shelf registration process, we may from time to time, offer and sell the securities described in this prospectus or use this prospectus to register securities that may be offered and sold by selling securityholders from time to time. This prospectus provides a general description of the securities that we may offer and sell and that may be offered and sold by selling securityholders. Each time we offer and sell these securities, we will provide a prospectus supplement containing specific information about the terms of the securities being offered and the manner in which it may be offered. We may add, update or change the information contained in this prospectus by means of one or more prospectus supplements. If there is any inconsistency between the information in this prospectus and the applicable prospectus supplement, you should rely on the information in the prospectus supplement. Before investing in our securities, both this prospectus and any prospectus supplement, together with the additional information described under the headings “*Where You Can Find More Information*” and “*Incorporation of Certain Information by Reference*,” should be carefully reviewed.

This prospectus incorporates important business and financial information about us that is not included in or delivered with this prospectus. We will provide, without charge, a copy of any or all of the documents incorporated by reference in this prospectus upon written or oral request. Direct any such requests to: General Counsel, Arthur J. Gallagher & Co., 2850 Golf Road, Rolling Meadows, Illinois 60008-4050 (telephone number (630) 773-3800).

**You should rely only on information contained in or incorporated by reference in this prospectus. We have not authorized anyone to give you any information or make any representation that is different from, or in addition to, that contained in this prospectus or in any of the materials that we have incorporated by reference into this document. If anyone does give you information of this sort, you should not rely on it. If you are in a jurisdiction where offers to sell, or solicitations of offers to purchase, the securities offered by this document are unlawful, or if you are a person to whom it is unlawful to direct these types of activities, then the offer presented in this document does not extend to you. The information contained in this prospectus (including the information contained in any document incorporated by reference in this prospectus) speaks only as of the date of each such document, unless the information specifically indicates that another date applies.**

## ARTHUR J. GALLAGHER & CO.

We are engaged in providing insurance brokerage and consulting services, and third-party property/casualty claims settlement and administration services to entities in the U.S. and abroad.

We generate approximately 68% of our revenues for the combined brokerage and risk management segments in the United States, with the remaining 32% generated internationally, primarily in the United Kingdom, Australia, Canada, New Zealand and Bermuda. We have three reportable segments: brokerage, risk management and corporate, which contributed approximately 74%, 14% and 12%, respectively, to our 2020 revenues. Our major sources of operating revenues are commissions, fees and supplemental and contingent revenues from brokerage operations, and fees, including performance-based fees, from our risk management operations. The corporate segment generates revenues from our clean energy investments.

For more information about our business, please refer to the “Business” section in our most recent Annual Report on Form 10-K filed with the SEC and incorporated by reference in this prospectus and the “Management’s Discussion and Analysis of Financial Condition and Results of Operations” sections of our most recent Annual Report on Form 10-K and all subsequent Quarterly Reports on Form 10-Q filed with the SEC and incorporated by reference in this prospectus.

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[Table of Contents](#)

Shares of our common stock are traded on the New York Stock Exchange under the symbol “AJG”. We were reincorporated as a Delaware corporation in 1972. Our executive offices are located at 2850 Golf Road, Rolling Meadows, Illinois 60008-4050, and our telephone number is (630) 773-3800.

Unless the context otherwise requires, the terms “we,” “our,” “Gallagher”, and “us” refer to Arthur J. Gallagher & Co. and/or its subsidiaries, as appropriate. The term “you” refers to a prospective investor.

## **RISK FACTORS**

Investing in our securities involves risks. Before making an investment decision, you should carefully consider the specific risks set forth under the caption “Risk Factors” in the applicable prospectus supplement as well as under the caption “Risk Factors” in our filings with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act of 1934, as amended (the “Exchange Act”), which are incorporated by reference into this prospectus, including our Annual Report on Form 10-K for the fiscal year ended December 31, 2020. Our business is influenced by many factors that are difficult to predict and beyond our control and that involve uncertainties that may materially affect our results of operations, financial condition or cash flows, or the value of our securities. If any one or more of the risks set forth in the applicable prospectus supplement or documents incorporated by reference into this prospectus actually occur, our business, financial condition or results of operations would likely suffer. In addition, the trading price of our securities could decline, and you may lose all or part of your investment.

## CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This prospectus, the accompanying prospectus supplement and the documents they incorporate by reference, contain certain statements related to future results, or state our intentions, beliefs and expectations or predictions for the future, which are forward-looking statements as that term is defined in the Private Securities Litigation Reform Act of 1995. Forward-looking statements relate to expectations or forecasts of future events. Such statements use words such as “anticipate,” “believe,” “estimate,” “expect,” “contemplate,” “forecast,” “project,” “intend,” “plan,” “potential,” and other similar terms, and future or conditional tense verbs like “could,” “may,” “might,” “see,” “should,” “will” and “would.” You can also identify forward-looking statements by the fact that they do not relate strictly to historical or current facts. For example, we may use forward-looking statements when addressing topics such as: market and industry conditions, including competitive and pricing trends; acquisition strategy including the expected size of our acquisition program; the expected impact of acquisitions and dispositions; the development and performance of our services and products; changes in the composition or level of our revenues or earnings; our cost structure and the size and outcome of cost-saving or restructuring initiatives; future capital expenditures; future debt levels and anticipated actions to be taken in connection with maturing debt; future debt to earnings ratios; the outcome of contingencies; dividend policy; pension obligations; cash flow and liquidity; capital structure and financial losses; future actions by regulators; the outcome of existing regulatory actions, investigations, reviews or litigation; the impact of changes in accounting rules; financial markets; interest rates; foreign exchange rates; matters relating to our operations; income taxes, expectations regarding our investments, including our clean energy investments; human capital management, including diversity and inclusion initiatives; environmental, social and governance matters, including climate-resilience products and services and carbon emissions; and integrating recent acquisitions. These forward-looking statements are subject to certain risks and uncertainties that could cause actual results to differ materially from either historical or anticipated results depending on a variety of factors.

Potential factors that could impact results include:

- The ongoing COVID-19 pandemic, including its effect on the economy, our employees, our clients, the regulatory environment and our operations;
- The current or a future economic downturn or unstable economic conditions, whatever the cause, including the effects of the COVID-19 pandemic, or other factors like Brexit, worsening international relations, tariffs, trade wars, political violence and unrest in the U.S. or around the world, or climate change and other long-term environmental, social and governance matters and global health risks;
- Volatility or declines in premiums or other adverse trends in the insurance industry;
- Competitive pressures, including as a result of innovation, in each of our businesses;
- Risks that could negatively affect the success of our acquisition strategy, including the impact of current economic uncertainty on our ability to source, review and price acquisitions, continuing consolidation in our industry and growing interest in acquiring insurance brokers on the part of private equity firms and newly public insurance brokers, which could make it more difficult to identify targets and could make them more expensive, the risk that we may not receive timely regulatory approval of desired transactions, execution risks, integration risks, poor cultural fit, the risk of post-acquisition deterioration leading to intangible asset impairment charges, and the risk we could incur or assume unanticipated liabilities such as cybersecurity issues or those relating to violations of anti-corruption and sanctions laws;
- Failure to successfully and cost-effectively integrate recently acquired businesses and their operations or fully realize synergies from such acquisitions in the expected time frame;
- Cyber attacks or other cybersecurity incidents including the ransomware incident referred to in our Annual Report on Form 10-K for the fiscal year ended December 31, 2020 under “Update on Ransomware Incident”; improper disclosure of confidential, personal or proprietary data; and changes to laws and regulations governing cybersecurity and data privacy;

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## [Table of Contents](#)

- Risks arising from changes in U.S. or foreign tax laws, including the current U.S. president's administration's potential reversal of all or part of the U.S. Tax Cuts and Jobs Act 2017 (which we refer to as the TCJA) and related regulations;
- Uncertainty from the expected discontinuance of LIBOR;
- Our failure to attract and retain experienced and qualified talent, including our senior management team, and the risk of our CEO or another senior executive contracting COVID-19;
- Risks arising from our international operations, including the risks posed by political and economic uncertainty in certain countries (such as the risks posed by Brexit), risks related to maintaining regulatory and legal compliance across multiple jurisdictions (such as those relating to violations of anti-corruption, sanctions and privacy laws), rising global tensions and protectionism, and risks arising from the complexity of managing businesses across different time zones, languages, geographies, cultures and legal regimes that conflict with one another at times;
- Risks particular to our risk management segment, including reduced economic activity due to COVID-19 further reducing claim activity, any slowing of the trend toward outsourcing claims administration, and the concentration of large amounts of revenue with certain clients;
- Risks particular to our benefit consulting operations, including reduced economic activity due to COVID-19 further reducing fee revenue from special projects and risks to the business posed by potential changes to health legislation under the current U.S. president's administration;
- The higher level of variability inherent in contingent and supplemental revenues versus standard commission revenues, particularly in light of the changed revenue recognition accounting standard;
- Sustained increases in the cost of employee benefits;
- A disaster or other significant disruption to business continuity, including natural disasters and political violence and unrest in the U.S. or elsewhere around the world;
- Damage to our reputation including as a result of environmental, social and governance matters;
- Climate risks, including the risk of a systemic economic crisis and disruptions to our business caused by the transition to a low-carbon economy;
- Our failure to apply technology effectively in driving value for our clients through technology-based solutions, or failure to gain internal efficiencies and effective internal controls through the application of technology and related tools;
- Our failure to comply with regulatory requirements, including those related to governance and control requirements in particular jurisdictions, international sanctions, or a change in regulations or enforcement policies that adversely affects our operations (for example, relating to insurance broker compensation methods);
- Violations or alleged violations of the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act 2010 or other anti-corruption laws and the Foreign Account Tax Compliance provisions of the Hiring Incentives to Restore Employment Act (which we refer to as FATCA);
- The outcome of any existing or future investigation, review, regulatory action or litigation;
- Unfavorable determinations related to contingencies and legal proceedings;
- Significant changes in foreign exchange rates;
- Changes to our financial presentation from new accounting estimates and assumptions;
- Risks related to our clean energy investments, including intellectual property claims, utilities switching from coal to natural gas or renewable energy sources, environmental and product liability claims, environmental compliance costs and the risk of disallowance by the Internal Revenue Service (which we refer to as the IRS) of previously claimed tax credits;



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## [Table of Contents](#)

- The risk that our outstanding debt adversely affects our financial flexibility and restrictions and limitations in the agreements and instruments governing our debt;
- The risk we may not be able to receive dividends or other distributions from subsidiaries;
- The risk of share ownership dilution when we issue common stock as consideration for acquisitions and for other reasons; and
- Volatility of the price of our common stock.

Forward-looking statements are not guarantees of future performance. They involve risks, uncertainties and assumptions, including the risk factors referred to above, and are currently, or in the future could be, amplified by the COVID-19 pandemic. Our future performance and actual results may differ materially from those expressed in forward-looking statements. Accordingly, you should not place undue reliance on forward-looking statements, which speak only as of, and are based on information available to us on, the date of the applicable document. Many of the factors that will determine these results are beyond our ability to control or predict. All subsequent written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. Forward-looking statements speak only as of the date that they are made, and we do not undertake any obligation to update any such statements or release publicly any revisions to these forward-looking statements to reflect events or circumstances after the date of this prospectus or to reflect new information, future or unexpected events or otherwise, except as required by applicable law or regulation.

A detailed discussion of the factors that could cause actual results to differ materially from our published expectations is contained under the heading “Risk Factors” in our filings with the SEC, including our Annual Report on Form 10-K for the fiscal year ended December 31, 2020, and any reports we file with the SEC in the future, which are incorporated by reference into this prospectus.

## **USE OF PROCEEDS**

Unless otherwise specified in a prospectus supplement accompanying this prospectus, the net proceeds from the sale of the securities to which this prospectus relates will be used for general corporate purposes. Net proceeds may be temporarily invested prior to use. We will not receive any proceeds from the sale of securities offered for sale in connection with this prospectus by selling securityholders. The selling securityholders will receive all of the net proceeds from those sales.

## **SELLING SECURITYHOLDERS**

Information about selling securityholders, where applicable, will be set forth in a prospectus supplement, in a post-effective amendment, or in filings we make with the SEC under the Exchange Act, which are incorporated by reference herein.

**DESCRIPTION OF SECURITIES**

We will set forth in the applicable prospectus supplement a description of the debt securities, guarantees, common stock, preferred stock, warrants, depositary shares, purchase contracts, or units that may be offered under this prospectus.

## **PLAN OF DISTRIBUTION**

We, or any selling securityholders, may offer and sell these securities to or through one or more underwriters, dealers and agents, or directly to purchasers, or a combination thereof, on a continuous or delayed basis. We will provide the specific plan of distribution for any securities to be offered in the applicable prospectus supplement.

## **LEGAL MATTERS**

Gibson, Dunn & Crutcher LLP will pass upon the validity of the securities being offered by this prospectus. Any underwriters, dealers or agents will be represented by their own legal counsel.

## **EXPERTS**

The consolidated financial statements and related financial statement schedule of Arthur J. Gallagher & Co. appearing in Arthur J. Gallagher & Co.'s Annual Report (Form 10-K) for the year ended December 31, 2020, and the effectiveness of Arthur J. Gallagher & Co.'s internal control over financial reporting as of December 31, 2020 have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their reports thereon, included therein, and incorporated herein by reference. Such consolidated financial statements are incorporated herein by reference in reliance upon such reports given on the authority of such firm as experts in accounting and auditing.

## WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC under the Exchange Act. You may access and read our SEC filings, including the complete registration statement of which this prospectus is a part and all of the exhibits to it, through commercial document retrieval services, which are available to the public, and also on the SEC's website located at <http://www.sec.gov>. This site contains reports and other information that we file electronically with the SEC.

We have filed a registration statement, of which this prospectus is a part, and related exhibits with the SEC under the Securities Act. This prospectus, filed as part of the registration statement, does not contain all of the information set forth in the registration statement and its exhibits and schedules, portions of which have been omitted as permitted by the rules and regulations of the SEC. For further information about us and our securities, we refer you to the registration statement and its exhibits and schedules.

Statements in this prospectus about the contents of any contract, agreement or other documents are not necessarily complete and, in each instance, we refer you to the copy of such contract, agreement or document filed as an exhibit to the registration statement, with each such statement being qualified in all respects by reference to the document to which it refers.

## INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

THIS PROSPECTUS INCORPORATES DOCUMENTS BY REFERENCE THAT ARE NOT PRESENTED IN OR DELIVERED WITH THIS PROSPECTUS. YOU SHOULD RELY ONLY ON THE INFORMATION CONTAINED IN THIS PROSPECTUS AND IN THE DOCUMENTS THAT WE HAVE INCORPORATED BY REFERENCE INTO THIS PROSPECTUS. WE HAVE NOT AUTHORIZED ANYONE TO PROVIDE YOU WITH INFORMATION THAT IS DIFFERENT FROM OR IN ADDITION TO THE INFORMATION CONTAINED IN THIS PROSPECTUS AND INCORPORATED BY REFERENCE INTO THIS PROSPECTUS.

We incorporate information into this prospectus by reference, which means that we can disclose important information to you by referring you to those documents, which have been separately filed with the SEC. The information incorporated by reference is considered to be part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We are incorporating by reference our filings listed below and any additional documents that we may file with the SEC pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act on or after the date of this prospectus and before the termination of the offering of the securities made under this prospectus; except we are not incorporating by reference any information furnished (but not filed) under Item 2.02 or Item 7.01 of any Current Report on Form 8-K or corresponding information furnished under Item 9.01 of Form 8-K (or included as an exhibit) in any past or future current report on Form 8-K that we may file with the SEC, unless specifically noted below:

- Our Annual Report on Form 10-K for the fiscal year ended December 31, 2020, filed with the SEC on [February 8, 2021](#) (including the portions of our proxy statement for our 2021 annual meeting of stockholders incorporated by reference therein);
- The portions of our [proxy statement](#) for our 2020 annual meeting of stockholders filed with the SEC on March 23, 2020 that are incorporated by reference into our Annual Report on Form 10-K for the fiscal year ended December 31, 2019; and
- The description of our common stock contained in our Registration Statement on Form 8-A (registration no. 0-13480), filed with the SEC on November 2, 1987, as updated by the description of our common stock contained in [Exhibit 4.1](#) to our Annual Report on Form 10-K for the fiscal year ended December 31, 2019, and all amendments or reports filed for the purpose of updating such descriptions.

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[Table of Contents](#)

Information in this prospectus supersedes related information in the documents listed above and information in subsequently filed documents supersedes related information in both this prospectus and the incorporated documents.

You may request orally or in writing, and we will provide you with, a copy of these filings, at no cost, by calling us at (630) 773-3800 or by writing to us at the following address:

General Counsel  
Arthur J. Gallagher & Co.  
2850 Golf Road  
Rolling Meadows, Illinois 60008-4050

These filings and reports can also be found on our investor relations website, located at <https://investor.ajg.com>. Additionally, you may obtain copies of any of these through the SEC's website: <http://www.sec.gov>.

**The information contained on our website does not constitute a part of this prospectus.**



**PART II****INFORMATION NOT REQUIRED IN PROSPECTUS****Item 14. Other Expenses of Issuance and Distribution.**

The expenses (other than underwriting compensation) to be incurred by us in connection with the issuance and distribution of our securities being registered hereby are:

Securities and Exchange Commission filing fee	\$	*
Accounting fees and expenses		**
Legal fees and expenses		**
Printing fees		**
Trustee's fees and expenses		**
Rating agency fees		**
Miscellaneous		**
<b>Total expenses</b>	<b>\$</b>	<b>**</b>

\* Deferred in accordance with Rules 456(b) and 457(r) of the Securities Act.

\*\* Estimated expenses are not presently known. The foregoing sets forth the general categories of expenses (other than underwriting discounts and commissions) that we anticipate we will incur in connection with the offering of our securities under this registration statement. An estimate of the various expenses in connection with the issuance and distribution of our securities being offered will be included in the applicable prospectus supplement.

**Item 15. Indemnification of Directors and Officers.**

Gallagher is incorporated under the Delaware General Corporation Law (the "DGCL").

Section 145(a) of the DGCL provides that a Delaware corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful.

Section 145(b) of the DGCL provides that a Delaware corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person acted in any of the capacities set forth above, against expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted under standards similar to those discussed above, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine that despite the adjudication of liability, but in view of all circumstances of the case, such person is fairly and reasonably entitled to be indemnified for such expenses which the Court of Chancery or such other court shall deem proper.

Section 145 of the DGCL further provides that to the extent a director or officer of a corporation has been successful in the defense of any action, suit or proceeding referred to in subsections (a) and (b) of Section 145 of the DGCL or in the defense of any claim, issue or matter therein, such person shall be indemnified against

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## [Table of Contents](#)

expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith; and that indemnification provided for by Section 145 of the DGCL shall not be deemed exclusive of any other rights to which the indemnified party may be entitled; and that the corporation shall have power to purchase and maintain insurance on behalf of a director or officer of the corporation against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such whether or not the corporation would have the power to indemnify such person against such liability under Section 145 of the DGCL.

Section 102(b)(7) of the DGCL provides that a corporation's certificate of incorporation may provide a provision that eliminates or limits the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that such provisions shall not eliminate or limit the liability of a director (1) for any breach of the director's duty of loyalty to the corporation or its stockholders; (2) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law; (3) under Section 174 of the DGCL; or (4) for any transaction from which the director derived an improper personal benefit. No such provision shall eliminate or limit the liability of a director for any act or omission occurring before the date when such provision becomes effective.

Article Seven of Gallagher's Amended and Restated By-laws provide for the indemnification of each of Gallagher's directors, officers, employees or agents to the full extent permitted by applicable law, including, without limitation, the DGCL.

Article Seven of Gallagher's Amended and Restated By-laws provides that Gallagher shall indemnify any person in connection with any action, suit or proceeding brought or threatened by reason of the fact that he or she is or was one of Gallagher's directors, officers, employees or agents, or is or was serving at Gallagher's request as a director, officer, employee or agent of another enterprise, against all costs actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to Gallagher's best interests and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. Similar indemnity is permitted to be provided to such persons in connection with an action or suit by Gallagher or in Gallagher's right, and provided further that such person shall not have been adjudged liable to Gallagher, unless, in view of all the circumstances of the case, the court in which the action or suit was brought determines that such person despite the adjudication of liability is fairly and reasonably entitled to indemnity for such expenses.

Article Twelve of Gallagher's Amended and Restated Certificate of Incorporation eliminates the liability of Gallagher's directors for monetary damages for breach of fiduciary duty as a director except where a director breaches his or her duty of loyalty to Gallagher or its stockholders, fails to act in good faith or engages in intentional misconduct or a knowing violation of law, authorizes the payment of a dividend or stock repurchase that is illegal under Section 174 of the DGCL, or obtains an improper personal benefit.

Gallagher also maintains and pays premiums on a directors' and officers' liability insurance policy and has entered into indemnity agreements with its directors and officers. The provisions of each indemnity agreement alter or clarify the statutory indemnification in the following respects: (1) indemnity will be explicitly provided for settlements in derivative actions; (2) prompt payment of litigation expenses will be provided in advance of indemnification; (3) prompt indemnification of advances of expenses will be provided unless a determination is made that the director or officer has not met the required standard; (4) the director or officer will be permitted to petition a court to determine whether his or her actions meet the standards required; and (5) partial indemnification will be permitted in the event that the director or officer is not entitled to full indemnification. In addition, each indemnity agreement specifically includes indemnification with respect to actions, suits or proceedings brought under and/or predicated upon the Securities Act and/or the Securities Exchange Act.

The preceding summary is qualified in its entirety by Gallagher's Amended and Restated Certificate of Incorporation and Amended and Restated By-laws, and the indemnity agreements described above.

## Table of Contents

### **Item 16. Exhibits**

The following exhibits are filed herewith or incorporated herein by reference.

<u>Exhibit No.</u>	<u>Description</u>
1.1	Form of Underwriting Agreement.*
4.1	<a href="#"><u>Amended and Restated Certificate of Incorporation of Arthur J. Gallagher &amp; Co. (incorporated by reference to Exhibit 3.1 to our Form 10-Q Quarterly Report for the quarterly period ended June 30, 2008, File No. 1-09761).</u></a>
4.2	<a href="#"><u>Amended and Restated By-Laws of Arthur J. Gallagher &amp; Co. (incorporated by reference to Exhibit 3.2 to our Form 10-Q Quarterly Report for the quarterly period ended September 30, 2020, File No. 1-09761).</u></a>
4.3	<a href="#"><u>Form of Indenture between Arthur J. Gallagher &amp; Co. and The Bank of New York Mellon Trust Company, N.A., as trustee.</u></a>
4.4	Form of Debt Securities.*
4.5	Form of Guarantee.*
4.6	Form of Preferred Stock Certificate.*
4.7	Form of Warrant Agreement.*
4.8	Form of Warrant Certificate.*
4.9	Form of Deposit Agreement.*
4.10	Form of Depositary Receipt.*
4.11	Form of Purchase Contract.*
4.12	Form of Unit Agreement.*
5.1	<a href="#"><u>Opinion of Gibson, Dunn &amp; Crutcher LLP.</u></a>
23.1	<a href="#"><u>Consent of Gibson, Dunn &amp; Crutcher LLP (included in Exhibit 5.1).</u></a>
23.2	<a href="#"><u>Consent of Ernst &amp; Young LLP, Independent Registered Public Accounting Firm.</u></a>
24.1	<a href="#"><u>Power of Attorney (included on the signature page of this registration statement).</u></a>
25.1	<a href="#"><u>Statement of Eligibility under the Trust Indenture Act of 1939, as amended of The Bank of New York Mellon Trust Company, N.A., as trustee for the form of Indenture.</u></a>

\* To be filed, if necessary, as an exhibit to a post-effective amendment to this registration statement or as an exhibit to a report filed under the Securities Exchange Act of 1934, as amended, and incorporated herein by reference.

### **Item 17. Undertakings.**

The undersigned registrant hereby undertakes:

- (a) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
  - (1) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;
  - (2) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in the volume of securities

offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

- (3) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

*provided, however, that paragraphs (1), (2) and (3) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.*

- (b) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (c) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (d) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:
  - (1) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and
  - (2) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. *Provided, however,* that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.
- (e) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:
  - (1) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

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## Table of Contents

- (2) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
  - (3) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
  - (4) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.
- (f) That, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- (g) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Rolling Meadows, State of Illinois, on the 8th day of March, 2021.

ARTHUR J. GALLAGHER & CO.

By: /s/ J. Patrick Gallagher, Jr.  
J. Patrick Gallagher, Jr.  
Chairman, President and Chief Executive Officer  
(Principal Executive Officer)

POWER OF ATTORNEY

We, the undersigned directors and officers, do hereby constitute and appoint Walter D. Bay and Douglas K. Howell, and each of them severally, our true and lawful attorneys-in-fact and agents with full power of substitution and re-substitution for us and in our name, place, and stead, to do any and all acts and things in our name and on our behalf in our capacities as directors and officers and to execute any and all instruments for us and in our names in the capacities indicated below, which said attorneys-in-fact and agents may deem necessary or advisable to enable Arthur J. Gallagher & Co. to comply with the Securities Act of 1933, as amended (the “Securities Act”), and any rules, regulations and requirements of the Securities and Exchange Commission, in connection with this registration statement on Form S-3, including specifically, but without limitation, power and authority to sign for us or any of us, in our names in the capacities indicated below, any and all amendments (including pre- and post-effective amendments) hereto and any related registration statement and amendments thereto and to file the same, with all exhibits thereto, and other documents in connection therewith; and we do each hereby ratify and confirm all that said attorneys-in-fact and agents shall do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signatures</u>	<u>Title</u>	<u>Date</u>
<u>/s/ J. Patrick Gallagher, Jr.</u> J. Patrick Gallagher, Jr.	Chairman, President and Director (Principal Executive Officer)	March 8, 2021
<u>/s/ Douglas K. Howell</u> Douglas K. Howell	Vice President and Chief Financial Officer (Principal Financial Officer)	March 8, 2021
<u>/s/ Richard C. Cary</u> Richard C. Cary	Controller (Principal Accounting Officer)	March 8, 2021
<u>/s/ Sherry S. Barrat</u> Sherry S. Barrat	Director	March 8, 2021
<u>/s/ William L. Bax</u> William L. Bax	Director	March 8, 2021

[Table of Contents](#)

<div>/s/ D. John Coldman</div> <div>D. John Coldman</div>	Director	March 8, 2021
<div>/s/ David S. Johnson</div> <div>David S. Johnson</div>	Director	March 8, 2021
<div>/s/ Kay W. McCurdy</div> <div>Kay W. McCurdy</div>	Director	March 8, 2021
<div>/s/ Christopher C. Miskel</div> <div>Christopher C. Miskel</div>	Director	March 8, 2021
<div>/s/ Ralph J. Nicoletti</div> <div>Ralph J. Nicoletti</div>	Director	March 8, 2021
<div>/s/ Norman L. Rosenthal</div> <div>Norman L. Rosenthal</div>	Director	March 8, 2021

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**ARTHUR J. GALLAGHER & CO.,**

**Issuer**

**and**

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

**Trustee**

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**Indenture**

Dated as of

[            ]

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**Debt Securities**

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# TABLE OF CONTENTS

## Page

### ARTICLE ONE

#### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

SECTION 1.01.	Definitions.	1
SECTION 1.02.	Compliance Certificates and Opinions.	6
SECTION 1.03.	Form of Documents Delivered to Trustee.	7
SECTION 1.04.	Acts of Holders.	7
SECTION 1.05.	Notices, etc. to Trustee and Issuer.	8
SECTION 1.06.	Notice to Holders; Waiver.	9
SECTION 1.07.	Conflict with Trust Indenture Act.	9
SECTION 1.08.	Effect of Headings and Table of Contents.	9
SECTION 1.09.	Successors and Assigns.	9
SECTION 1.10.	Separability Clause.	9
SECTION 1.11.	Benefits of Indenture.	9
SECTION 1.12.	Governing Law; Waiver of Trial by Jury.	9
SECTION 1.13.	Legal Holidays.	10
SECTION 1.14.	Submission to Jurisdiction.	10
SECTION 1.15.	Indemnification of Judgment Currency.	10
SECTION 1.16.	U.S.A. Patriot Act.	10

### ARTICLE TWO

#### SECURITY FORMS

SECTION 2.01.	Forms Generally.	11
SECTION 2.02.	Form of Trustee's Certificate of Authentication.	11
SECTION 2.03.	Securities in Global Form	11

### ARTICLE THREE

#### THE SECURITIES

SECTION 3.01.	Amount Unlimited; Issuable in Series.	12
SECTION 3.02.	Denominations.	13
SECTION 3.03.	Execution, Authentication, Delivery and Dating.	13
SECTION 3.04.	Temporary Securities.	14
SECTION 3.05.	Registration, Registration of Transfer and Exchange of Global Securities Representing the Securities.	15
SECTION 3.06.	Mutilated, Destroyed, Lost and Stolen Securities.	17
SECTION 3.07.	Payment of Interest; Interest Rights Preserved.	17
SECTION 3.08.	Persons Deemed Owners.	18
SECTION 3.09.	Cancellation.	18
SECTION 3.10.	Computation of Interest.	18
SECTION 3.11.	CUSIP Numbers.	19

### ARTICLE FOUR

#### SATISFACTION AND DISCHARGE; DEFEASANCE

SECTION 4.01.	Satisfaction and Discharge of Securities of any Series.	19
SECTION 4.02.	Option to Effect Legal Defeasance or Covenant Defeasance.	19

## TABLE OF CONTENTS

(continued)

	<u>Page</u>
SECTION 4.03. Legal Defeasance and Discharge.	20
SECTION 4.04. Covenant Defeasance.	20
SECTION 4.05. Conditions to Legal or Covenant Defeasance.	20
SECTION 4.06. Survival of Certain Obligations.	21
SECTION 4.07. Application of Trust Money.	22
SECTION 4.08. Repayment of Moneys Held by Paying Agent.	22
SECTION 4.09. Reinstatement.	22

### ARTICLE FIVE

#### REMEDIES OF THE TRUSTEE AND HOLDERS ON EVENT OF DEFAULT

SECTION 5.01. Events of Default.	22
SECTION 5.02. Acceleration of Maturity; Rescission and Annulment.	23
SECTION 5.03. Collection of Indebtedness and Suits for Enforcement by Trustee.	24
SECTION 5.04. Trustee May File Proofs of Claim.	24
SECTION 5.05. Trustee May Enforce Claims without Possession of Securities.	25
SECTION 5.06. Application of Money Collected.	25
SECTION 5.07. Limitation on Suits.	25
SECTION 5.08. Unconditional Right of Holders to Receive Principal, Premium and Interest.	26
SECTION 5.09. Restoration of Rights and Remedies.	26
SECTION 5.10. Rights and Remedies Cumulative.	26
SECTION 5.11. Delay or Omission Not Waiver.	26
SECTION 5.12. Control by Holders.	26
SECTION 5.13. Waiver of Past Defaults.	27
SECTION 5.14. Undertaking for Costs.	27

### ARTICLE SIX

#### THE TRUSTEE

SECTION 6.01. Certain Duties and Responsibilities.	27
SECTION 6.02. Notice of Defaults.	28
SECTION 6.03. Certain Rights of Trustee.	28
SECTION 6.04. Not Responsible for Recitals or Issuance of Securities.	29
SECTION 6.05. May Hold Securities.	30
SECTION 6.06. Money Held in Trust.	30
SECTION 6.07. Compensation and Reimbursement.	30
SECTION 6.08. Disqualification; Conflicting Interests.	31
SECTION 6.09. Corporate Trustee Required; Eligibility.	31
SECTION 6.10. Resignation and Removal; Appointment of Successor.	31
SECTION 6.11. Acceptance of Appointment by Successor.	32
SECTION 6.12. Merger, Conversion, Consolidation or Succession to Business.	33
SECTION 6.13. Preferential Collection of Claims Against Issuer.	33

### ARTICLE SEVEN

#### HOLDERS' LISTS AND REPORTS BY TRUSTEE AND ISSUER

SECTION 7.01. Issuer to Furnish Trustee Names and Addresses of Holders.	33
SECTION 7.02. Preservation of Information; Communications to Holders.	33
SECTION 7.03. Reports by Trustee to Holders.	34

---

**TABLE OF CONTENTS**

(continued)

**Page****ARTICLE EIGHT****CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE**

SECTION 8.01.	Merger, Consolidation, etc. Only on Certain Terms.	34
SECTION 8.02.	Successor Corporation Substituted.	34

**ARTICLE NINE****SUPPLEMENTAL INDENTURES**

SECTION 9.01.	Supplemental Indentures without Consent of Holders.	35
SECTION 9.02.	Supplemental Indentures with Consent of Holders.	35
SECTION 9.03.	Execution of Supplemental Indentures.	36
SECTION 9.04.	Effect of Supplemental Indentures.	36
SECTION 9.05.	Conformity with Trust Indenture Act.	36
SECTION 9.06.	Reference in Securities to Supplemental Indentures.	36
SECTION 9.07.	Notice of Supplemental Indenture.	37

**ARTICLE TEN****COVENANTS**

SECTION 10.01.	Payment of Principal, Premium and Interest.	37
SECTION 10.02.	Maintenance of Office or Agency.	37
SECTION 10.03.	Money for Securities Payments to Be Held in Trust.	37
SECTION 10.04.	Corporate Existence.	38
SECTION 10.05.	Payment of Taxes and Other Claims.	38
SECTION 10.06.	Maintenance of Properties.	39
SECTION 10.07.	Waiver of Certain Covenants.	39
SECTION 10.08.	Statement by Officers as to Default.	39
SECTION 10.09.	Reports.	39
SECTION 10.10.	Further Assurances.	40
SECTION 10.11.	Foreign Account Tax Compliance Act (FATCA)	40

**ARTICLE ELEVEN****REDEMPTION OF SECURITIES**

SECTION 11.01.	Applicability of Article.	40
SECTION 11.02.	Election to Redeem; Notice to Trustee.	40
SECTION 11.03.	Selection by Trustee of Securities to Be Redeemed.	40
SECTION 11.04.	Notice of Redemption.	41
SECTION 11.05.	Deposit of Redemption Price.	41
SECTION 11.06.	Securities Payable on Redemption Date.	42
SECTION 11.07.	Securities Redeemed in Part.	42
SECTION 11.08.	Securities No Longer Outstanding After Notice to Trustee and Deposit of Cash.	42

**ARTICLE TWELVE****SINKING FUNDS**

SECTION 12.01.	Applicability of Article.	42
----------------	---------------------------	----

---

**TABLE OF CONTENTS**  
(continued)

	<u>Page</u>
SECTION 12.02. Satisfaction of Sinking Fund Payments with Securities.	43
SECTION 12.03. Redemption of Securities for Sinking Fund.	43
ARTICLE THIRTEEN	
IMMUNITY OF INCORPORATORS, STOCKHOLDERS, SHAREHOLDERS, OFFICERS AND DIRECTORS	
SECTION 13.01. Exemption from Individual Liability.	43
ARTICLE FOURTEEN	
MISCELLANEOUS	
SECTION 14.01. Counterparts.	44
SECTION 14.02. Signatures	44

**Reconciliation and Tie of this Indenture,  
relating to Sections 310 through 318, inclusive, of the  
Trust Indenture Act of 1939, as amended**

<b><u>Trust Indenture Act Section</u></b>	<b><u>Indenture Section</u></b>
310(a)(1)	6.09
(a)(2)	6.09
(a)(3)	Not applicable
(a)(4)	Not applicable
(a)(5)	6.09
(b)	6.08, 6.10
311(a)	6.13
(b)	6.13
312(a)	7.01, 7.02(a)
(b)	7.02(b)
(c)	7.02(c)
313(a)	7.03
(b)(2)	7.03
(c)	7.03
(d)	7.03
314(a)	10.09
(a)(4)	10.08
(b)	Not applicable
(c)(1)	1.02
(c)(2)	1.02
(c)(3)	Not applicable
(d)	Not applicable
(e)	1.02
315(a)	6.01(a)
(b)	6.02
(c)	6.01(b)
(d)	6.01(c)
(e)	5.14
316(a)	1.01
316(a)(1)(A)	5.12
(a)(1)(B)	5.13
(a)(2)	Not applicable
(b)	5.08
(c)	1.04(e)
317(a)(1)	5.03
(a)(2)	5.04
(b)	10.03
318(a)	1.07

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NOTE: This reconciliation and tie shall not, for any purpose, be deemed to be part of the Indenture.

## RECITALS OF THE ISSUER

The Issuer has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its unsecured debentures, notes or other evidences of indebtedness (the “Securities”), to be issued in one or more series as in this Indenture provided.

All things necessary to make this Indenture a valid agreement of the Issuer, in accordance with its terms, have been done.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually covenanted and agreed, for the benefit of each other and the equal and proportionate benefit of all Holders of the Securities or of series thereof, as follows:

## ARTICLE ONE

### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

#### SECTION 1.01. *Definitions.*

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;

(b) all other terms used herein which are defined in the Trust Indenture Act or by Commission rule under the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein;

(c) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP; and

(d) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

Certain terms, used principally in Article Seven, are defined in that Article.

“Act” when used with respect to any Holder, has the meaning specified in Section 1.04.

“Affiliate” means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“Agent” means any Registrar, Paying Agent, or Depositary Custodian.

“Applicable Law” has the meaning specified in Section 10.11.

“Applicable Procedures” means, with respect to any matter at any time relating to a Global Security, the rules, policies and procedures of the Depositary applicable to such matter.

“Authenticating Agent” means any Person authorized by the Trustee pursuant to Section 3.03 to act on behalf of the Trustee to authenticate Securities of one or more series.

“Authorized Newspaper” shall mean a newspaper of general circulation in the Borough of Manhattan, The City of New York, and customarily published on each Business Day, currently expected to be *The Wall Street Journal* (National Edition). Where successive publications are required to be made in an Authorized Newspaper, the successive publications may be made in the same or different newspapers meeting the foregoing requirements and in each case on any Business Day.

“Authorized Officers” has the meaning specified in Section 1.05.

“Bankruptcy Law” means Title 11, United States Bankruptcy Code of 1978 as amended, or any similar United States federal or state law relating to relief of debtors or any amendment to, succession to or change in any such law.

“Board of Directors” means either the board of directors of the Issuer or any committee of that board duly appointed by such board of directors and authorized to act hereunder.

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

“Business Day” when used with respect to any Place of Payment, means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in that Place of Payment are authorized or obligated by law or executive order to close.

“Capital Stock” means, with respect to any Person, any shares or other equivalents (however designated) of any class of corporate stock or partnership interests or any other participations, rights, warrants, options or other interests in the nature of an equity interest in such Person, including, without limitation, preferred stock and any debt security convertible or exchangeable into such equity interest.

“Commission” means the Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

“Corporate Trust Office” means the corporate trust office of the Trustee at which at any particular time its corporate trust business in respect of this Indenture shall be administered, which office at the date hereof is located at 2 North LaSalle Street, 7<sup>th</sup> Floor, Chicago, Illinois 60602.

“Corporation” includes corporations, associations, companies and business trusts.

“Covenant Defeasance” has the meaning specified in Section 4.04.

“Custodian” means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.

“Defaulted Interest” has the meaning specified in Section 3.07.

“Depository” has the meaning specified in Section 3.01.

“Depository Custodian” means the Trustee as custodian with respect to any of the Global Securities or any successor entity thereto.

“Dollar” or “\$” means a dollar or other equivalent unit in such coin or currency of the United States as at the time of payment is legal tender for the payment of public and private debts.

“Electronic Means” means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

“Event of Default” has the meaning specified in Section 5.01.

“Exchange Act” has the meaning specified in Section 3.05.

“GAAP” shall mean generally accepted accounting principles in the United States of America set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession as in effect from time to time.

“Global Security” has the meaning specified in Section 2.03.

“Hedging Obligation” means, with respect to any Person, the obligations of such Person under (i) currency exchange, interest rate or commodity swap agreements, currency exchange, interest rate or commodity cap agreements and currency exchange, interest rate or commodity collar agreements and (ii) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange, interest rates or commodity prices.

“Holder” means a Person in whose name a Security is registered in the Security Register.

“Indebtedness” means, with respect to any Person, (a) the principal of and premium (if any) in respect of any obligation of such Person for money borrowed, and any obligation evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable; (b) all obligations of such Person as lessee under leases required to be capitalized on the balance sheet of the lessee under GAAP and leases of property or assets made as part of any sale and leaseback transaction entered into by such Person; (c) all obligations of such Person issued or assumed as the deferred purchase price of any property, all conditional sale obligations of such Person and all obligations of such Person under any title retention agreement (but excluding trade accounts payable or similar obligations to a trade creditor arising in the ordinary course of business); (d) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker’s acceptance or similar credit transaction; (e) all obligations of the type referred to in clauses (a) through (d) of other Persons and all dividends of other Persons for the payment of which, in either case, such Person is responsible or liable, directly or indirectly, as obligor, guarantor or otherwise, including by means of any guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business); (f) all obligations of the type referred to in clauses (a) through (d) of other Persons secured by any Lien on any property of such Person (whether or not such obligation is assumed by such Person); and (g) to the extent not otherwise included in this definition, Hedging Obligations of such Person.

“Indenture” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof and shall include the form and terms of particular series of Securities established as contemplated by Section 3.01.

“Instructions” has the meaning specified in Section 1.05.

“Interest” when used with respect to an Original Issue Discount Security which by its terms bears interest only after Maturity, means interest payable after Maturity.

“Interest Payment Date” when used with respect to any Security, means the Stated Maturity of an installment of interest on such Security.

“Issuer” means Arthur J. Gallagher & Co., a Delaware corporation, until a successor Person shall have become such pursuant to the applicable provisions of the Indenture, and thereafter “Issuer” shall mean such successor Person.



“Issuer Request” or “Issuer Order” means a written request or order signed in the name of the Issuer by any one of its Chairman of the Board, Chief Executive Officer, President, a Vice President, Chief Financial Officer, General Counsel, Secretary, an Assistant Secretary, Treasurer or an Assistant Treasurer, and delivered to the Trustee.

“Legal Defeasance” has the meaning specified in Section 4.03.

“Lien” means, with respect to any property of any Person, any mortgage or deed of trust, pledge, hypothecation, assignment, deposit arrangement, security interest, lien, charge, encumbrance, preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever on or with respect to such property (including any capital lease obligation, conditional sale or other title retention agreement having substantially the same economic effect as any of the foregoing or any sale and leaseback transaction).

“Maturity” when used with respect to any Security, means the date on which the principal of such Security or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

“Obligation” means any principal, premium, interest (including interest accruing subsequent to a bankruptcy or other similar proceeding whether or not such interest is an allowed claim enforceable against the Issuer in a bankruptcy case under Federal Bankruptcy Law), penalties, fees, indemnifications, reimbursements, damages and other liabilities payable pursuant to the terms of the documentation governing any Indebtedness.

“Officers’ Certificate” means a certificate signed by (i) the Chairman of the Board, the Chief Executive Officer, the President, a Vice President, the Chief Financial Officer, or the General Counsel of the Issuer, and (ii) the Secretary, an Assistant Secretary, the Treasurer or an Assistant Treasurer of the Issuer and delivered to the Trustee.

“Opinion of Counsel” means a written opinion, acceptable to the Trustee, of legal counsel for the Issuer who may be an employee of the Issuer.

“Original Issue Discount Security” means any Security which provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.02.

“Outstanding” when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

(i) Securities theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(ii) Securities or portions thereof for whose payment or redemption money or, as provided in Section 4.05 hereof, U.S. Government Obligations, in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Issuer) in trust or, except for purposes of Section 4.01, set aside and segregated in trust by the Issuer (if the Issuer shall act as its own Paying Agent) for the Holders of such Securities; provided that, if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made; and

(iii) Securities which have been paid pursuant to Section 3.06 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a protected purchaser in whose hands such Securities are valid Obligations of the Issuer;

*provided, however*, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder or whether a quorum is present at a meeting of Holders of Securities, (i) the principal amount of an Original Issue Discount Security that shall be deemed to be Outstanding shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon acceleration of the maturity thereof pursuant to Section 5.02, (ii) the principal amount of a Security denominated in one or more foreign currencies which shall be deemed to be Outstanding shall be the U.S. Dollar equivalent, determined as of such date in the manner provided as contemplated by Section 3.01, of the principal amount of such Security (or, in the case of a Security described in Clause (i) above,

of the amount determined as provided in such Clause), and (iii) Securities owned by the Issuer or any other obligor upon the Securities or any Affiliate of the Issuer or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, or upon such determination as to the presence of a quorum, only Securities which a Responsible Officer of the Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Issuer or any other obligor upon the Securities or any Affiliate of the Issuer or of such other obligor.

"Paying Agent" means any Person authorized by the Issuer to pay the principal of (and premium, if any) or interest on any Securities on behalf of the Issuer.

"Person" means any individual, corporation, partnership, joint venture, joint-stock company, limited liability company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"Place of Payment" when used with respect to the Securities of any series, means the place or places where the principal of (and premium, if any) and interest on the Securities of that series are payable as specified as contemplated by Section 3.01.

"Predecessor Security" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 3.06 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

"Principal" of a debt security, including any Security, on any day and for any purpose means the amount (including, without limitation, in the case of an Original Issue Discount Security, any accrued original issue discount, but excluding interest) that is payable with respect to such debt security as of such date and for such purpose (including, without limitation, in connection with any sinking fund, upon any redemption at the option of the Issuer, upon any purchase or exchange at the option of the Issuer or the holder of such debt security and upon any acceleration of the maturity of such debt security).

"Principal Amount" of a debt security, including any Security, means the principal amount as set forth on the face of such debt security.

"Redemption Date" when used with respect to any Security to be redeemed, means the date fixed for such redemption by or pursuant to this Indenture.

"Redemption Price" when used with respect to any Security to be redeemed, means the price (exclusive of accrued interest, if any) at which it is to be redeemed pursuant to this Indenture.

"Regular Record Date" for the interest payable on any Interest Payment Date on the Securities of any series means the date specified for that purpose as contemplated by Section 3.01 (whether or not a Business Day).

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

"Securities" has the meaning stated in the first recital of this Indenture and more particularly means any Securities authenticated and delivered under this Indenture.

"Security Register" and "Security Registrar" have the respective meanings specified in Section 3.05.

“Significant Subsidiary” means any Subsidiary of the Issuer that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act of 1933, as amended, as such regulation is in effect on the date hereof.

“Special Record Date” for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 3.07.

“Stated Maturity” when used with respect to any Security or any installment of principal thereof or interest thereon, means the date specified in such Security as the fixed date on which the principal of such Security or such installment of principal or interest is due and payable.

“Subsidiary” means, with respect to any Person, (i) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof and (ii) any partnership, joint venture, limited liability company or similar entity of which (x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise and (y) such Person or any wholly owned Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Trust Indenture Act” means the Trust Indenture Act of 1939, as amended, and as in force at the date as of which this instrument was executed, except as provided in Section 9.05; provided, however, that in the event the Trust Indenture Act is amended after such date, “Trust Indenture Act” means, with respect to the Securities of any series issued after such date, the Trust Indenture Act as so amended.

“Trustee” means the Person named as the “Trustee” in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series shall mean the Trustee with respect to Securities of that series.

“U.S. Government Obligations” has the meaning specified in Section 4.05.

“Vice President” when used with respect to the Issuer or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title “vice president.”

#### SECTION 1.02. *Compliance Certificates and Opinions.*

Upon any application or request by the Issuer to the Trustee to take any action under any provision of this Indenture, the Issuer shall furnish to the Trustee an Officers’ Certificate stating that all conditions precedent (including any covenant compliance with which constitutes a condition precedent), if any, provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel such action is authorized or permitted by this Indenture and all such conditions precedent (including any covenants compliance with which constitutes a condition precedent), if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than annual certificates provided pursuant to Section 10.08) shall include:

(1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

#### SECTION 1.03. *Form of Documents Delivered to Trustee.*

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Issuer may be based, insofar as it relates to legal matters, upon a certificate or Opinion of Counsel, or representations by counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or Opinion of Counsel or representation by counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Issuer stating that the information with respect to such factual matters is in the possession of the Issuer, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

#### SECTION 1.04. *Acts of Holders.*

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing or by the record of the Holders voting in favor thereof at any meeting of such Holders duly called and held; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or any such record is delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Such instrument or instruments or such record (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments or voting at such meeting. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee, the Issuer if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof, or may be proved in such other manner as shall be deemed sufficient by the Trustee.

Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership of Securities shall be proved by the Security Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Issuer in reliance thereon, whether or not notation of such action is made upon such Security.

(e) The Issuer or the Trustee, as applicable, may set a date for the purpose of determining the Holders of Securities entitled to consent, vote or take any other action referred to in this Section 1.04, which date shall be not less than 10 days nor more than 60 days prior to the taking of the consent, vote or other action.

#### SECTION 1.05. *Notices, etc. to Trustee and Issuer.*

Any request, demand, authorization, direction, notice, consent, waiver or Act of the Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder or by the Issuer shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at its Corporate Trust Office, attention: Corporate Trust Department, and, unless otherwise herein expressly provided, any such document shall be deemed to be sufficiently made, given, furnished or filed upon its receipt by a Responsible Officer of the Trustee, or

(2) the Issuer by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, or overnight air courier guaranteeing next day delivery, to the Issuer addressed to it at:

c/o Arthur J. Gallagher & Co.  
2850 Golf Road Rolling Meadows, Illinois 60008-4050  
Attention: General Counsel

or at any other address or addresses previously furnished in writing to the Trustee by the Issuer.

The Issuer agrees that the Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and delivered using Electronic Means; provided, however, that the Issuer shall provide to the Trustee an incumbency certificate listing officers with the authority and designated to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Issuer whenever a person is to be added or deleted from the listing. If the Issuer elects to give the Trustee Instructions using Electronic Means and the Trustee in its reasonable discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Issuer understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Issuer shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Issuer and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Issuer. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from its reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Issuer agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Issuer; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

SECTION 1.06. *Notice to Holders; Waiver.*

Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Holder affected by such event, at his address as it appears in the Security Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Notwithstanding any other provision of this Indenture or any Global Security, where this Indenture or any Global Security provides for notice of any event (including any notice of redemption or repurchase) to a Holder of a Global Security (whether by mail or otherwise), such notice shall be sufficiently given if given to the Depositary (or its designee) pursuant to the standing instructions from the Depositary or its designee, including by electronic mail in accordance with Applicable Procedures.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

SECTION 1.07. *Conflict with Trust Indenture Act.*

If any provision hereof limits, qualifies or conflicts with the duties imposed by any of Sections 310 to 317, inclusive, of the Trust Indenture Act through operation of Section 318(c), such imposed duties shall control.

SECTION 1.08. *Effect of Headings and Table of Contents.*

The Article and Section headings herein, the Trust Indenture Act Reconciliation and Tie, and the Table of Contents are for convenience only and shall not affect the construction hereof.

SECTION 1.09. *Successors and Assigns.*

All covenants and agreements in this Indenture by the Issuer shall bind their successors and assigns, whether so expressed or not.

SECTION 1.10. *Separability Clause.*

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

SECTION 1.11. *Benefits of Indenture.*

Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

SECTION 1.12. *Governing Law; Waiver of Trial by Jury.*

This Indenture and the Securities shall be governed by and construed in accordance with the laws of the State of New York. The Issuer, the Trustee and each Holder irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Indenture or the transactions contemplated hereby.

#### SECTION 1.13. *Legal Holidays.*

Unless otherwise provided with respect to the Securities of a series, in any case where any Interest Payment Date, Redemption Date or Stated Maturity of any Security shall not be a Business Day at any Place of Payment, then (notwithstanding any other provision of this Indenture or of the Securities) payment of Principal of (and premium, if any) or interest, if any, on such Security need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on the Interest Payment Date or Redemption Date, or at the Stated Maturity, provided that no additional interest shall accrue with respect to the payment due on such date for the period from and after such Interest Payment Date, Redemption Date or Stated Maturity, as the case may be.

#### SECTION 1.14. *Submission to Jurisdiction.*

For the benefit of the Holders, the Issuer hereby (i) irrevocably submits to the non-exclusive jurisdiction of any New York State court or United States federal court sitting in the Borough of Manhattan in the City of New York solely for purposes of any legal action or proceeding arising out of or relating to the Securities or this Indenture and (ii) irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any legal action or proceeding in any New York State court or United States federal court sitting in the Borough of Manhattan in the City of New York, and any claim that any such action or proceedings brought in any such court has been brought in an inconvenient forum. The Issuer agrees that a final judgment in any such legal action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

To the extent that the Issuer may in any jurisdiction claim for itself or its assets immunity (to the extent that any immunity may now or hereafter exist) from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process (whether through service or notice or otherwise), and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity (whether or not claimed), the Issuer irrevocably agrees not to claim, and irrevocably waives, such immunity to the full extent permitted by the laws of such jurisdiction.

#### SECTION 1.15. *Indemnification of Judgment Currency.*

To the fullest extent permitted by applicable law, the Issuer shall indemnify each Holder against any loss incurred by such Holder as a result of any judgment or order being given or made for any amount due under any Security and such judgment or order being expressed and paid in a currency (the "Judgment Currency"), which is other than U.S. dollars and as a result of any variation as between (i) the rate of exchange at which the U.S. dollar is converted into the Judgment Currency for the purposes of such judgment or order and (ii) the spot rate of exchange in The City of New York at which the Holder on the date of payment of such judgment is able to purchase U.S. dollars with the amount of the Judgment Currency actually received by such Holder. This indemnification will constitute a separate and independent obligation of the Issuer and will continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term "spot rate of exchange" includes any premiums and costs of exchange payable in connection with the purchase of, or conversion into, U.S. dollars.

#### SECTION 1.16. *U.S.A. Patriot Act.*

The Issuer acknowledges that in accordance with Section 326 of the U.S.A. PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. PATRIOT Act.

## ARTICLE TWO

### SECURITY FORMS

#### SECTION 2.01. *Forms Generally.*

The Securities of each series shall be in substantially the form established from time to time by or pursuant to an Officers' Certificate, a Board Resolution or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the officers executing such Securities, as evidenced by their execution of such Securities. Any portion of the text of any Security may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Security. Any such Officers' Certificate, Board Resolution or supplemental indenture shall have attached thereto a true and correct copy of the form of Security referred to in such Officers' Certificate, Board Resolution or supplemental indenture.

The Trustee's certificate of authentication shall be in substantially the form set forth in this Article.

The definitive Securities shall be produced in any manner, as determined by the officers executing such Securities, as evidenced by their execution of such Securities.

#### SECTION 2.02. *Form of Trustee's Certificate of Authentication.*

The Trustee's certificate of authentication on all Securities shall be in substantially the following form:

This is one of the Securities of the series designated therein issued under the within-mentioned Indenture.

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

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., AS TRUSTEE

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

#### SECTION 2.03. *Securities in Global Form*

If any Security of a series is issuable in global form (a "Global Security"), such Global Security may provide that it shall represent the aggregate amount of Outstanding Securities from time to time endorsed thereon and may also provide that the aggregate amount of Outstanding Securities represented thereby may from time to time be reduced to reflect exchanges. Any endorsement of a Global Security to reflect the amount, or any increase or decrease in the amount, of Outstanding Securities represented thereby shall be made by the Trustee and in such manner as shall be specified in such Global Security. Any instructions by the Issuer with respect to a Global Security, after its initial issuance, shall be in writing but need not comply with Section 1.02. The Trustee and each Agent are hereby authorized to act in accordance with Applicable Procedures with respect to any Global Security and shall have no responsibility for any actions taken or not taken by any Depositary.

Global Securities may be issued in either temporary or permanent form. Permanent Global Securities will be issued in definitive form.



## ARTICLE THREE

### THE SECURITIES

#### SECTION 3.01. *Amount Unlimited; Issuable in Series.*

The aggregate Principal Amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to an Officers' Certificate, a Board Resolution or one or more indentures supplemental hereto, prior to the issuance of Securities of any series,

(1) the title of the Securities of the series (which shall distinguish the Securities of the series from all other Securities);

(2) the aggregate Principal Amount of the Securities of such series and any limit upon the aggregate Principal Amount of the Securities of the series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other securities of the series pursuant to Section 3.04, 3.05, 3.06, 9.06 or 11.07);

(3) the date or dates on which the principal (and premium, if any) of the Securities of the series is payable or the method of determination thereof;

(4) the rate or rates (which may be fixed or variable), or the method of determination thereof, at which the Securities of the series shall bear interest, if any, including the rate of interest applicable on overdue payments of Principal or interest, if different from the rate of interest stated in the title of the Security, the date or dates from which such interest shall accrue or the method of determination thereof, the Interest Payment Dates on which such interest shall be payable and the Regular Record Date for the interest payable on any Interest Payment Date;

(5) the Paying Agent or Paying Agents, Security Registrar and Depositary Custodian for the Securities of the series if other than the Trustee;

(6) the Place of Payment of the Securities of the series;

(7) if other than U.S. Dollars, the foreign currency or currencies in which Securities of the series shall be denominated or in which payment of the Principal of (and premium, if any) or interest on Securities of the series may be made, and the particular provisions applicable thereto and the manner of determining the equivalent thereof in the currency of the United States of America for any purpose, including for purposes of the definition of "Outstanding" in Section 1.01;

(8) the right, if any, of the Issuer to redeem the Securities of such series and the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of the series may be redeemed, in whole or in part, at the option of the Issuer;

(9) the obligation, if any, of the Issuer to redeem or purchase Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof and the period or periods within which, the price or prices at which and the terms and conditions upon which Securities of the series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(10) if other than denominations of \$2,000 and any integral multiple of \$1,000 in excess thereof, the denominations in which Securities of the series shall be issuable;

(11) whether the Securities of the series shall be issued in whole or in part in the form of one or more Global Securities and, in such case, the depositary (the "Depositary") for such Global Security or Securities; and the manner in which and the circumstances under which Global Securities representing Securities of the series may be exchanged for Securities in definitive form, if other than, or in addition to, the manner and circumstances specified in Section 3.05(b);

(12) if other than the Principal Amount thereof, the portion of the Principal Amount of Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 5.02;

(13) if the provisions of Section 4.03 or 4.04 of this Indenture are to apply to the Securities of the series, a statement indicating the same;

(14) any deletions from or modifications of or additions to the Events of Default set forth in Section 5.01 pertaining to the Securities of the series;

(15) the form of the Securities of the series;

(16) any security for or guarantees of the Securities of the series or the addition of an additional obligor of the Securities of the series; and

(17) any other terms of a particular series and any other provisions expressing or referring to the terms and conditions upon which the Securities of that series are to be issued, (which terms and conditions are not in conflict with the provisions of this Indenture or do not adversely affect the rights of Holders of any other series of Securities then Outstanding); *provided, however*, that the addition to or subtraction from or variation of Articles Four, Five, Eight, Ten and Twelve (and Section 1.01 insofar as it relates to the definition of certain terms as used in such Articles) with regard to the Securities of a particular series shall not be deemed to constitute a conflict with the provisions of those Articles.

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to such Officers' Certificate, Board Resolution or indenture supplemental hereto. All Securities of any one series need not be issued at the same time, and unless otherwise provided, a series may be reopened for issuance of additional Securities of such series without the consent of the Holders thereof.

The Securities of all series shall rank on a parity in right of payment.

#### SECTION 3.02. *Denominations.*

The Securities of each series shall be issuable in registered form without coupons in such denominations as shall be specified as contemplated by Section 3.01. In the absence of any such provisions with respect to the Securities of any series, the Securities of such series shall be issuable in denominations of \$2,000 and any integral multiple of \$1,000 in excess thereof.

#### SECTION 3.03. *Execution, Authentication, Delivery and Dating.*

The Securities shall be executed on behalf of the Issuer by (i) the Chairman of the Board, the Chief Executive Officer, the President, a Vice President, the Chief Financial Officer, or the General Counsel of the Issuer, and (ii) the Secretary, an Assistant Secretary, the Treasurer or an Assistant Treasurer of the Issuer. The signature of any of these officers on the Securities may be manual, or facsimile or by other electronic means.

Securities bearing the manual, facsimile or other electronic signatures of individuals who were at any time the proper officers of the Issuer shall bind such Person notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of issuance of such Securities.

At any time and from time to time after the execution and delivery of this Indenture, the Issuer may deliver Securities of any series executed by the Issuer to the Trustee for authentication, together with an Issuer Order for the authentication and delivery of such Securities, and the Trustee in accordance with the Issuer Order shall authenticate and deliver such Securities. If any Security shall be represented by a permanent Global Security, then, for purposes of this Section and Section 3.04, the notation of a beneficial owner's interest therein upon original issuance of such Security or upon exchange of a portion of a temporary Global Security shall be deemed to be delivery in connection with the original issuance of such beneficial owner's interest in such permanent Global Security.

In authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive and (subject to Section 6.01) shall be fully protected in relying upon the documents specified in Section 314 of the Trust Indenture Act, and, in addition:

(1) the executed Officers' Certificate, Board Resolution, or supplemental indenture, as applicable; and

(2) an Opinion of Counsel which shall state:

(A) the form or forms and terms of such Securities, if any, have been established in conformity with the provisions of this Indenture; and

(B) all conditions precedent set forth in this Indenture to the authentication and delivery of such Securities have been complied with and that such Securities, when completed by appropriate insertions (if applicable), executed by duly authorized officers of the Issuer, delivered by duly authorized officers of the Issuer to the Trustee for authentication pursuant to this Indenture, and authenticated and delivered by the Trustee and issued by the Issuer in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute the legal, valid and binding Obligations of the Issuer, enforceable in accordance with their terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

If such form or terms have been so established, the Trustee shall not be required to authenticate such Securities if the issue of such Securities pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustee.

Notwithstanding the provisions of Section 3.01 and of this Section 3.03, if all Securities of a series are not to be originally issued at one time, it shall not be necessary to deliver the Officers' Certificate, Board Resolution, or supplemental indenture, as applicable, otherwise required pursuant to Section 3.01 or the Officers' Certificate, Board Resolution, or supplemental indenture, as applicable, and Opinion of Counsel otherwise required pursuant to this Section 3.03 at or prior to the time of authentication of each Security of such series if such documents are delivered at or prior to the authentication upon original issuance of the first Security of such series to be issued.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual, electronic or facsimile signature of an authorized signatory, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

The Trustee may appoint an Authenticating Agent acceptable to the Issuer to authenticate Securities. An Authenticating Agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent.

#### SECTION 3.04. *Temporary Securities.*

Pending the preparation of definitive Securities of any series, the Issuer may execute, and upon Issuer Order, the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, reproduced or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities.

If temporary Securities of any series are issued, the Issuer will cause definitive Securities of that series to be prepared without unreasonable delay. After the preparation of definitive Securities of such series, the temporary Securities of such series shall be exchangeable for definitive Securities of such series upon surrender of the temporary Securities of such series at the office or agency of the Issuer in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series, the

Issuer shall execute and the Trustee shall authenticate and deliver in exchange therefor a like Principal Amount of definitive Securities of the same series of authorized denominations. Until so exchanged the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of such series.

*SECTION 3.05. Registration, Registration of Transfer and Exchange of Global Securities Representing the Securities.*

(a) The Issuer shall cause to be kept at the Corporate Trust Office of the Trustee a register (the register maintained in such office or in any other office or agency of the Issuer in a Place of Payment being herein sometimes referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration of Securities and of transfers of Securities. The Trustee is hereby appointed "Security Registrar" for the purpose of registering Securities and transfers of Securities as herein provided.

The Security Registrar shall maintain on behalf of the Issuer a full and complete list of names and addresses of all Holders of Securities issued by the Issuer pursuant to this Indenture and any indenture supplemental hereto, and the Principal Amount of Securities held by such Holder.

Upon surrender for registration of transfer of any Security of any series at the office or agency in a Place of Payment for that series, the Issuer shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of the same series, of any authorized denominations and of a like aggregate Principal Amount and Stated Maturity.

Except as otherwise provided in this Article Three, at the option of the Holder, Securities of any series may be exchanged for other Securities of the same series, of any authorized denominations and of an equal aggregate Principal Amount, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid Obligations of the Issuer evidencing the same debt and entitled to the same benefits under this Indenture as the Securities surrendered upon such registration of transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Issuer or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Issuer and the Security Registrar duly executed, by the Holder thereof or his attorney duly authorized in writing with such signature guaranteed by a commercial bank reasonably acceptable to the Trustee or by a member of a national securities exchange.

No service charge shall be made for any registration of transfer or exchange of Securities, but the Issuer or the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 3.04, 9.06 or 11.07 not involving any transfer. The transferor shall also provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation, any cost basis reporting obligations under Section 6045 of the Internal Revenue Code of 1986, as amended. The Trustee may rely on any such information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

The Issuer shall not be required (i) to issue, register the transfer of or exchange Securities of any series during a period beginning at the opening of business 15 days before the day of the mailing or sending of a notice of redemption of Securities of that series selected for redemption under Section 11.03 and ending at the close of business on the day of such mailing or sending, or (ii) to register the transfer of or exchange of any Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

(b) If the Issuer shall establish pursuant to Section 3.01 that the Securities of a series are to be issued in whole or in part in the form of one or more Global Securities, then the Issuer shall execute and the Trustee shall, in

accordance with Section 3.03 and the Issuer Order with respect to such series, authenticate and deliver one or more Global Securities in temporary or permanent form that (i) shall represent and shall be denominated in an amount equal to the aggregate Principal Amount of the Outstanding Securities of such series to be represented by one or more Global Securities, (ii) shall be registered in the name of the Depositary for such Global Security or Securities or the nominee of such Depositary, (iii) shall be delivered by the Trustee or delivered or held pursuant to such Depositary's instruction, and (iv) unless otherwise provided for with respect to the Securities of such series pursuant to Section 3.01, shall bear a legend substantially to the following effect: "This Security may not be transferred except as a whole by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary, unless and until this Security is exchanged in whole or in part for Securities in definitive form."

Each Depositary designated pursuant to Section 3.01 must, at the time of its designation and at all times while it serves as Depositary, be a clearing agency registered under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and any other applicable statute or regulation.

If at any time the Depositary for the Securities of a series notifies the Issuer that it is unwilling or unable to continue as Depositary for the Securities of such series or if at any time the Depositary for Securities of a series shall no longer be a clearing agency registered and in good standing under the Exchange Act or other applicable statute or regulation (as required by this Section 3.05), the Issuer shall appoint a successor Depositary eligible under this Section 3.05 with respect to the Securities of such series. If a successor Depositary for the Securities of such series is not appointed by the Issuer within 90 days after the Issuer receives such notice or becomes aware of such condition, the Issuer shall execute, and the Trustee, upon receipt of an Issuer Order for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive form in an aggregate Principal Amount equal to the Principal Amount of the Global Security or Securities representing such series in exchange for such Global Security or Securities.

The Issuer may at any time and in its sole discretion and subject to the procedures of the Depositary determine that the Securities of any series issued in the form of one or more Global Securities shall no longer be represented by such Global Security or Securities. In such event, the Issuer shall execute, and the Trustee, upon receipt of an Issuer Order for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive form and in an aggregate Principal Amount equal to the Principal Amount of the Global Security or Securities representing such series in exchange for such Global Security or Securities.

If the Securities of any series shall have been issued in the form of one or more Global Securities and if an Event of Default with respect to the Securities of such series shall have occurred and be continuing, the Issuer may, and upon the request of the Trustee shall, promptly execute, and the Trustee, upon receipt of an Issuer Order for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive form and in an aggregate Principal Amount equal to the Principal Amount of the Global Security or Securities representing such series in exchange for such Global Security or Securities.

The Depositary for such series of Securities may surrender a Global Security for such series of Securities in exchange in whole or in part for Securities of such series in definitive form on such terms as are acceptable to the Issuer and such Depositary. Thereupon, the Issuer shall execute and the Trustee shall authenticate and deliver, without charge:

(i) to each Person specified by the Depositary a new Security or Securities of the same series, of any authorized denomination as requested by such Person in an aggregate Principal Amount equal to and in exchange for such Person's beneficial interest in the Global Security; and

(ii) to the Depositary a new Global Security in a denomination equal to the difference, if any, between the Principal Amount of the surrendered Global Security and the aggregate Principal Amount of Securities delivered to holders thereof.

Upon the exchange of a Global Security for Securities in definitive form, such Global Security shall be cancelled by the Trustee. Securities issued in exchange for a Global Security pursuant to this subsection (b) shall be registered in such names and in such authorized denominations as the Depositary for such Global Security, pursuant

to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Securities to the Persons in whose names such Securities are so registered. In connection with any proposed exchange of Global Securities for Securities in definitive registered form, the Issuer or DTC shall be required to provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Section 6045 of the Internal Revenue Code of 1986, as amended. The Trustee may rely on any such information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

None of the Issuer, the Trustee nor any agent of the Issuer or the Trustee will have any responsibility or liability for the Depositary, including any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security or maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

#### SECTION 3.06. *Mutilated, Destroyed, Lost and Stolen Securities.*

If any mutilated Security is surrendered to the Trustee, the Issuer shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of the same series and of like tenor and Principal Amount and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Issuer and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Issuer or the Trustee that such Security has been acquired by a protected purchaser, the Issuer shall execute and upon its request the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of the same series and of like tenor and Principal Amount and bearing a number not contemporaneously outstanding.

If any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Issuer in its discretion may, instead of issuing a new Security, pay such Security.

Upon the issuance of any new Security under this Section, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security of any series issued pursuant to this Section in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Issuer, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of that series duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

#### SECTION 3.07. *Payment of Interest; Interest Rights Preserved.*

Interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest.

At the option of the Issuer, interest on the Securities of any series that bear interest may be paid by mailing a check to the address of the Person entitled thereto as such address shall appear in the Security Register.

Any interest on any Security of any series which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date ("Defaulted Interest") shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Issuer, at its election in each case, as provided in clause (1) or (2) below:

(1) The Issuer may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The

Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security of such series and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Issuer shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Issuer shall promptly notify the Trustee of such Special Record Date and, in the name and at the expense of the Issuer, the Trustee shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, or sent pursuant to Applicable Procedures, to each Holder of Securities of such series at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed or sent, such Defaulted Interest shall be paid to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

(2) The Issuer may make payment of any Defaulted Interest on the Securities of any series in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Issuer to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

#### SECTION 3.08. *Persons Deemed Owners.*

Prior to due presentment of a Security for registration of transfer, the Issuer, the Trustee and any agent of the Issuer or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of Principal of (and premium, if any) and (subject to Section 3.07) interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and none of the Issuer, the Trustee or any agent of the Issuer or the Trustee shall be affected by notice to the contrary.

#### SECTION 3.09. *Cancellation.*

All Securities surrendered for payment, redemption, conversion, registration of transfer or exchange or for credit against any sinking fund payment or analogous obligation shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and promptly shall be cancelled by it and, if surrendered to the Trustee, shall be promptly cancelled by it. The Issuer may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Issuer may have acquired in any manner whatsoever, and all Securities so delivered promptly shall be cancelled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Securities held by the Trustee shall be disposed of in accordance with the Trustee's customary procedures. The acquisition of any Securities by the Issuer shall not operate as a redemption or satisfaction of the Indebtedness represented thereby unless and until such Securities are surrendered to the Trustee for cancellation. Permanent Global Securities shall not be destroyed until exchanged in full for definitive Securities or until payment thereon is made in full.

#### SECTION 3.10. *Computation of Interest.*

Except as otherwise specified as contemplated by Section 3.01 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a year of twelve 30-day months.

SECTION 3.11. *CUSIP Numbers.*

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

**ARTICLE FOUR**

**SATISFACTION AND DISCHARGE; DEFEASANCE**

SECTION 4.01. *Satisfaction and Discharge of Securities of any Series.*

The Issuer shall be deemed to have satisfied and discharged the entire Indebtedness on all the Securities of any particular series (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for), and the Trustee, upon Issuer Request and at the expense of the Issuer, shall execute such instruments as may be requested by the Issuer acknowledging satisfaction and discharge of such Indebtedness, when

(a) either

(1) all Securities theretofore authenticated and delivered (other than (i) Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.06 and (ii) Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust, as provided in Section 10.03) have been delivered to the Trustee for cancellation; or

(2) all such Securities not theretofore delivered to the Trustee for cancellation

(A) have become due and payable, or

(B) will become due and payable at their Stated Maturity within one year, or

(C) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuer, and the Issuer, in the case of (A), (B) or (C) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose an amount sufficient to pay and discharge the entire Indebtedness on such Securities not theretofore delivered to the Trustee for cancellation (other than Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.06), for Principal (and premium, if any) and interest to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(b) the Issuer has paid or caused to be paid all other sums payable hereunder by the Issuer; and

(c) the Issuer has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of the entire Indebtedness on all Securities of such series have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the Obligations of the Issuer to the Trustee under Section 6.07 or to any Authenticating Agent under Section 3.03 and, if money shall have been deposited with the Trustee pursuant to subclause (B) of clause (2) of this Section, the Obligations of the Trustee under Section 4.07 and the last paragraph of Section 10.03 shall survive.

SECTION 4.02. *Option to Effect Legal Defeasance or Covenant Defeasance.*

The Issuer may, at the option of its Board of Directors evidenced by an Officers' Certificate, Board Resolution, or supplemental indenture, with respect to the Securities of any series, unless otherwise specified pursuant to Section 3.01 with respect to a particular series of Securities, elect to have either Section 4.03 or 4.04 be applied to all of the Outstanding Securities of that series upon compliance with the conditions set forth below in this Article Four.



#### SECTION 4.03. *Legal Defeasance and Discharge.*

Upon the Issuer's exercise under Section 4.02 of the option applicable to this Section 4.03, the Issuer shall be deemed to have been discharged from its Obligations with respect to all Outstanding Securities of the particular series and any coupons appertaining thereto on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, such Legal Defeasance means that the Issuer shall be deemed to have paid and discharged all the Obligations relating to the Outstanding Securities of that series, including any coupons appertaining thereto, and the Securities of that series, including any coupons appertaining thereto, shall thereafter be deemed to be "outstanding" only for the purposes of Section 4.06 and the other Sections of this Indenture referred to below in this Section 4.03, and to have satisfied all of its other Obligations under such Securities and any coupons appertaining thereto and this Indenture and cured all then existing Events of Default (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (i) the Issuer's Obligations with respect to Securities of such series under Sections 3.05, 3.06, 10.02 and 10.03, (ii) rights of Holders to receive payments of the Principal of (and premium, if any) and interest, if any, on the Securities of such series as they shall become due from time to time and other rights, duties and Obligations of Holders as beneficiaries hereof with respect to the amounts so deposited with the Trustee, (iii) the rights, obligations and immunities of the Trustee hereunder (for which purposes the Securities of such series shall be deemed Outstanding), (iv) this Article Four and the obligations set forth in Section 4.06 hereof and (v) the obligations of the Issuer under Section 6.07 hereof.

Subject to compliance with this Article Four, the Issuer may exercise its option under Section 5.03 notwithstanding the prior exercise of its option under Section 4.04 with respect to the Securities of a particular series and any coupons appertaining thereto.

#### SECTION 4.04. *Covenant Defeasance.*

Upon the Issuer's exercise under Section 4.02 of the option applicable to this Section 4.04, the Issuer shall be released from any obligations under the covenants contained in Sections 10.04, 10.05 and 10.06 or established pursuant to Section 3.01 or 9.01 hereof with respect to the Outstanding Securities of the particular series on and after the date the conditions set forth below are satisfied (hereinafter, "Covenant Defeasance"), and the Securities of that series and any coupons appertaining thereto shall thereafter be deemed not "Outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "Outstanding" for all other purposes hereunder (it being understood that such Securities shall not be deemed outstanding for accounting purposes). For this purpose, such Covenant Defeasance means that, with respect to the Outstanding Securities of that series and any coupons appertaining thereto, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a default or Event of Default under Section 5.01(4) or any Event of Default specified pursuant to Section 3.01 or 9.01 but, except as specified above, the remainder of this Indenture and the Securities of that series shall be unaffected thereby.

#### SECTION 4.05. *Conditions to Legal or Covenant Defeasance.*

The following shall be the conditions to the application of either Section 4.03 or Section 4.04 to the Outstanding Securities of a particular series:

(a) the Issuer must irrevocably deposit, or cause to be irrevocably deposited, with the Trustee for the Securities of that series, in trust, for the benefit of the Holders of the Securities of that series, cash in the currency or currency unit in which the Securities of that series are payable (except as otherwise specified pursuant to Section 3.01 for the Securities of that series) sufficient or U.S. Government Obligations the Principal of and interest on which will be sufficient or a combination thereof sufficient, in the written opinion of a nationally recognized firm of independent public accountants delivered to the Trustee, to pay the Principal of, premium, if any, and interest, if any, due on the Outstanding Securities of that series and any related coupons to and including the date of Stated Maturity, or the applicable Redemption Date, as the case may be, with respect to the Outstanding Securities of that series and any related coupons;

(b) in the case of Legal Defeasance only, the Issuer shall have delivered to the Trustee for the Securities of that series (1) an Opinion of Counsel confirming that, subject to customary assumptions and exclusions, since the date on which Securities of such series were originally issued, there has been a change in the applicable U.S. Federal income tax law, to the effect that, and based thereon such Opinion of Counsel shall confirm that, subject to customary assumptions and exclusions, the Holders of the Outstanding Securities of that series will not recognize income, gain or loss for U.S. Federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred or (2) a copy of a ruling or other formal statement or action to that effect received from or published by the U.S. Internal Revenue Service;

(c) in the case of Covenant Defeasance only, the Issuer shall have delivered to the Trustee for the Securities of that series an Opinion of Counsel confirming that, subject to customary assumptions and exclusions, the Holders of the Outstanding Securities of that series 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 such tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Event of Default or event which with the giving of notice or the lapse of time, or both, would become an Event of Default with respect to the Securities of that series (other than any event resulting from the borrowing of funds to be applied to make such deposit) shall have occurred and be continuing on the date of such deposit;

(e) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under any material agreement (other than this Indenture) or instrument to which the Issuer is a party or by which the Issuer is bound; and

(f) the Issuer shall have delivered to the Trustee for the Securities of that series an Officers' Certificate and an Opinion of Counsel (which opinion of counsel may be subject to customary assumptions and exclusions) each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

As used in this Article Four, "U.S. Government Obligations" means securities that are (i) direct Obligations of the United States of America for payment of which its full faith and credit is pledged or (ii) Obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the full and timely payment of which is unconditionally guaranteed as a full faith and credit obligation of the United States of America, which, in either case under clause (i) or (ii), are not callable or redeemable at the option of the issuer thereof, and will also include a depository receipt issued by a bank or trust company as Custodian with respect to any such U.S. Government Obligation or a specified payment of interest on or principal of any such U.S. Government Obligation held by such Custodian for the account of the holder of a depository receipt, provided that (except as required by law) such Custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the Custodian in respect of the U.S. Government Obligation or the specific payment of interest on or Principal of the U.S. Government Obligation evidenced by such depository receipt.

#### SECTION 4.06. *Survival of Certain Obligations.*

Notwithstanding the satisfaction and discharge of the Securities of a particular series referred to in Sections 4.01, 4.02, 4.04, or 4.05, the respective obligations of the Issuer and the Trustee for the Securities of a particular series under Sections 3.03, 3.04, 3.05, 3.06, 3.09, 4.07, 4.08, 4.09 and 5.08, Article Six, and Sections 7.01, 7.02, 10.02, 10.03 and 10.04, shall survive with respect to Securities of that series until the Securities of that series are cancelled, and thereafter the obligations of the Issuer and the Trustee for the Securities of a particular series with respect to that series under Sections 4.08 and 6.07 shall survive. Nothing contained in this Article Four shall abrogate any of the obligations or duties of the Trustee of any series of Securities under this Indenture.

SECTION 4.07. *Application of Trust Money.*

Subject to the provisions of the last paragraph of Section 10.03, all money and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee pursuant to Sections 4.01 and 4.05 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the Principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee.

SECTION 4.08. *Repayment of Moneys Held by Paying Agent.*

Any money deposited with the Trustee or any other Paying Agent remaining unclaimed by the Holders of any Securities for two years after the date upon which the Principal of or interest on such Securities shall have become due and payable, subject to applicable abandoned property law, shall be repaid to the Issuer by the Trustee or any such other Paying Agent and such Holders shall thereafter be entitled to look to the Issuer only as general creditors for payment thereof (unless otherwise provided by law).

SECTION 4.09. *Reinstatement.*

If the Trustee is unable to apply any money or U.S. Government Obligations in accordance with Section 4.07 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer's obligations under this Indenture and the Securities shall be revived and reinstated as though no deposit had occurred pursuant to Section 4.01 or 4.05, as the case may be, until such time as the Trustee is permitted to apply all such money or U.S. Government Obligations in accordance with Section 4.07; *provided* that, if the Issuer has made payment of Principal of, or interest on any Securities because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money or U.S. Government Obligations held by the Trustee.

**ARTICLE FIVE**

**REMEDIES OF THE TRUSTEE AND  
HOLDERS ON EVENT OF DEFAULT**

SECTION 5.01. *Events of Default.*

"Event of Default," wherever used herein with respect to Securities of any series, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) default in the payment of interest upon any Security of that series when it becomes due and payable, and continuance of such default for a period of 30 days; or

(2) default in the payment of the Principal of (or premium, if any, on) any Security of that series at its Maturity; or

(3) default in the deposit of any sinking fund payment, when and as due by the terms of any Security of that series; or

(4) default in the performance, or breach, of any covenant or warranty of the Issuer in this Indenture or any Security of that series (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section specifically dealt with or which has expressly been included in this Indenture solely for the benefit of series of Securities other than that series), and continuance of such default or breach for a period of 90 days after there has been given, by registered or certified mail or overnight air courier guaranteeing next day delivery, to the Issuer by the Trustee or to the Issuer and the Trustee by the Holders of at least 25% in Principal Amount of the Outstanding Securities of that series a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; or

(5) the entry by a court having jurisdiction in the premises of (A) a decree or order for relief in respect of the Issuer or any Significant Subsidiary in an involuntary case or proceeding under any applicable Bankruptcy Law or (B) a decree or order adjudging the Issuer or any Significant Subsidiary bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Issuer or any Significant Subsidiary under any applicable Bankruptcy Law, or appointing a Custodian of the Issuer or any Significant Subsidiary or of any substantial part of their property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 90 consecutive days; or

(6) the commencement by the Issuer or any Significant Subsidiary of a voluntary case or proceeding under any applicable Bankruptcy Law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Issuer or any Significant Subsidiary in an involuntary case or proceeding under any applicable Bankruptcy Law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable Bankruptcy Law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a Custodian of the Issuer or any Significant Subsidiary of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Issuer or any Significant Subsidiary in furtherance of any such action, or the taking of any comparable action under any foreign laws relating to insolvency; or

(7) any other Event of Default provided with respect to Securities of that series.

#### SECTION 5.02. *Acceleration of Maturity; Rescission and Annulment.*

If an Event of Default with respect to Securities of any series at the time Outstanding (other than of a type specified in Section 5.01(5) or (6)) occurs and is continuing, then in every such case the Trustee or the Holders of not less than 25% in Principal Amount of the Outstanding Securities of that series may declare the Principal Amount (or, if the Securities of that series are Original Issue Discount Securities, such portion of the Principal Amount as may be specified in the terms of that series) of all of the Securities of that series to be due and payable immediately, by a notice in writing to the Issuer (and to the Trustee if given by Holders), and upon any such declaration such Principal Amount (or specified amount) shall become immediately due and payable, anything in this Indenture or in any of the Securities of such series to the contrary notwithstanding.

At any time after such a declaration of acceleration with respect to Securities of any series has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article provided, the Holders of a majority in Principal Amount of the Outstanding Securities of that series, by written notice to the Issuer and the Trustee, may rescind and annul such declaration and its consequences if

(1) the Issuer has paid or deposited with the Trustee a sum sufficient to pay

(A) all overdue interest on all Securities of that series,

(B) the Principal of (and premium, if any, on) any Securities of that series which have become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in such Securities,

(C) to the extent that payment of such interest is lawful, interest upon overdue interest at the rate or rates prescribed therefor in such Securities, and

(D) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel and any other amounts due to the Trustee under Section 6.07 hereof;

and

(2) all Events of Default with respect to Securities of that series, other than the nonpayment of the principal of Securities of that series which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 5.13.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

Notwithstanding the foregoing, in the case of an Event of Default arising under Section 5.01(5) or (6), all outstanding Securities shall IPSO FACTO become due and payable without further action or notice.

#### SECTION 5.03. *Collection of Indebtedness and Suits for Enforcement by Trustee.*

The Issuer covenants that if

(1) default is made in the payment of interest on any Security when such interest becomes due and payable and such default continues for a period of 30 days,

(2) default is made in the payment of the Principal of (or, premium, if any, on) any Security at the Maturity thereof, or

(3) default is made in the making or satisfaction of any sinking fund payment or analogous Obligation when the same becomes due pursuant to the terms of any Security,

the Issuer, upon demand of the Trustee, will pay to it, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for Principal, including any sinking fund payment or analogous Obligations (and premium, if any) and interest, if any, and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue Principal (and premium, if any) and on any overdue interest, at the rate or rates prescribed therefor in such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel and any other amounts due to the Trustee under Section 6.07 hereof.

If the Issuer fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Issuer or any other obligor upon such Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Issuer or any other obligor upon such Securities, wherever situated.

If an Event of Default with respect to Securities of any series occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities of such series by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

#### SECTION 5.04. *Trustee May File Proofs of Claim.*

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Issuer or any other obligor upon the Securities or the property of the Issuer or of such other obligor or their creditors, the Trustee (irrespective of whether the Principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Issuer for the payment of overdue Principal or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(i) to file and prove a claim for the whole amount of Principal (and premium, if any) and interest, if any, owing and unpaid in respect of the Securities and to file such other papers or documents and take such other actions, including participating as a member, voting or otherwise, of any official committee of creditors appointed in such matter, as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and

(ii) to collect and receive any moneys or other property payable or deliverable on any such claim and to distribute the same; and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 6.07. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 6.07 hereof out of the estate in any such proceeding, shall be unpaid for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding except as aforesaid, to vote for the election of a trustee in bankruptcy or similar person or to participate as a member, voting or otherwise, on any committee of creditors.

#### SECTION 5.05. *Trustee May Enforce Claims without Possession of Securities.*

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

#### SECTION 5.06. *Application of Money Collected.*

Any money or property collected by the Trustee pursuant to this Article, and after an Event of Default, any money or other property distributable in respect of the Issuer's obligations under this Indenture shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of Principal (or premium, if any) or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee or any predecessor Trustee, including their agents and attorneys, under Section 6.07;

SECOND: To the payment of the amounts then due and unpaid for Principal of (and premium, if any) and interest on the Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for Principal (and premium, if any) and interest, respectively; and

THIRD: To the payment of the remainder, if any, to the Issuer, its successors or assigns, or to whomever may be so lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

#### SECTION 5.07. *Limitation on Suits.*

No Holder of any Security of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless

(1) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities of that series;

(2) the Holders of not less than a majority in Principal Amount of the Outstanding Securities of that series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(3) such Holder or Holders have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request;

(4) the Trustee for 60 days after its receipt of such notice, request and offer of security or indemnity has failed to institute any such proceeding; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in Principal Amount of the Outstanding Securities of that series;

it being understood and intended that no one or more of such Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other of such Holders, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all of such Holders.

#### SECTION 5.08. *Unconditional Right of Holders to Receive Principal, Premium and Interest.*

Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the Principal of (and premium, if any) and (subject to Section 3.07) interest on such Security on the Stated Maturity or Maturities expressed in such Security (or, in the case of redemption, on the Redemption Date) and the right to institute suit for the enforcement of any such payment and such rights shall not be impaired without the consent of such Holder.

#### SECTION 5.09. *Restoration of Rights and Remedies.*

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Issuer, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

#### SECTION 5.10. *Rights and Remedies Cumulative.*

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 3.06, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

#### SECTION 5.11. *Delay or Omission Not Waiver.*

No delay or omission of the Trustee or of any Holder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

#### SECTION 5.12. *Control by Holders.*

The Holders of a majority in Principal Amount of the Outstanding Securities of any series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to the Securities of such series, *provided that*

(1) such direction shall not be in conflict with any rule of law or with this Indenture,

(2) the Trustee shall not determine that the action so directed would be unjustly prejudicial to the Holders of the Securities of such series not taking part in such direction (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any such directions are unduly prejudicial to such Holders), or to the Holders of the Securities of any other series or would involve the Trustee in personal liability, and

(3) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

#### SECTION 5.13. *Waiver of Past Defaults.*

Subject to Section 5.02, the Holders of not less than a majority in Principal Amount of the Outstanding Securities of any series may on behalf of the Holders of all the Securities of such series waive any past default hereunder with respect to such series and its consequences, except a default

(1) in the payment of the Principal of (or premium, if any) or interest on any Security of such series, or

(2) in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Security of such series affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

#### SECTION 5.14. *Undertaking for Costs.*

All parties to this Indenture agree, and each Holder of any Security by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in Principal Amount of the Outstanding Securities of any series, or to any suit instituted by any Holder for the enforcement of the payment of the Principal of (or premium, if any) or interest on any Security on or after the Stated Maturity or Maturities expressed in such Security (or, in the case of redemption, on or after the Redemption Date).

### ARTICLE SIX

#### THE TRUSTEE

##### SECTION 6.01. *Certain Duties and Responsibilities.*

(a) Except during the continuance of an Event of Default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture but need not verify the accuracy of any mathematical calculations or the contents thereof or whether procedures specified by or pursuant to the provisions of this Indenture have been followed in the preparation thereof.



(b) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this subsection shall not be construed to limit the effect of Subsection (a) of this Section;

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

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in Principal Amount of the Outstanding Securities of any series, as provided in Section 5.12, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Securities of such series.

(d) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it, and the Trustee shall not be required to give any bond or surety in respect of the performance of its powers or duties hereunder.

(e) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

#### SECTION 6.02. *Notice of Defaults.*

Within 90 days after receipt of written notice of any default hereunder with respect to the Securities of any series, the Trustee shall transmit to all Holders of Securities of such series notice of such default hereunder known to a Responsible Officer of the Trustee, unless such default shall have been cured or waived; *provided, however*, that, except in the case of a default in the payment of the Principal of (or premium, if any) or interest on any Security of such series or in the payment of any sinking fund or analogous Obligation installment with respect to Securities of such series, the Trustee shall be protected in withholding such notice if and so long as the Trustee in good faith determines that the withholding of such notice is in the interest of the Holders of Securities of such series; and *provided, further*, that in the case of any default of the character specified in Section 5.01(4) with respect to Securities of such series, no such notice to Holders shall be given until at least 30 days after the occurrence thereof. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default with respect to Securities of such series.

#### SECTION 6.03. *Certain Rights of Trustee.*

Subject to the provisions of Section 6.01:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of Indebtedness or other paper or document (whether in its original, facsimile or other electronic form) believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request or direction of the Issuer mentioned herein shall be sufficiently evidenced by an Issuer Request or Issuer Order or Officers’ Certificate or similar document and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

(c) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, conclusively rely upon an Officers’ Certificate or an Opinion of Counsel, or both and shall not be liable for any action it takes or omits to take in good faith in reliance thereon;

(d) the Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

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

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of Indebtedness or other paper or document, or inquire as to the performance by the Issuer of any of its covenants in this Indenture, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney;

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

(h) the Trustee shall not be deemed to have notice or knowledge of any matter unless written notice thereof is received by the Trustee at the Corporate Trust Office and such notice references the Securities generally, the Issuer or this Indenture;

(i) the permissive right of the Trustee to take or refrain from taking any actions enumerated in this Indenture shall not be construed as a duty;

(j) in no event shall the Trustee be liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action;

(k) in no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including without limitation strikes, work stoppages, accidents, acts of war or terrorism, pandemics or epidemics, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services, or other unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility;

(l) the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be compensated, reimbursed and indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, Custodian and other Person employed to act hereunder;

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

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

#### SECTION 6.04. *Not Responsible for Recitals or Issuance of Securities.*

The recitals contained herein and in the Securities, except the Trustee's certificate of authentication, shall be taken as the statements of the Issuer, and neither the Trustee nor any Authenticating Agent assumes any

responsibility for their correctness. The Trustee makes no representations as to and shall not be responsible for the validity or sufficiency of this Indenture or of the Securities. The Trustee shall not be responsible for any document in connection with the sale of any Securities. Neither the Trustee nor any Authenticating Agent shall be accountable for the use or application by the Issuer of Securities or the proceeds thereof or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture, and it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee. The Trustee shall not be bound to ascertain or inquire as to the performance, observance, or breach of any covenants, conditions, representations, warranties or agreements on the part of the Issuer but the Trustee may require full information and advice as to the performance of the aforementioned covenants. Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Securities.

#### SECTION 6.05. *May Hold Securities.*

The Trustee, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Issuer, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 6.08 and 6.13, may otherwise deal with the Issuer or its Affiliates with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

#### SECTION 6.06. *Money Held in Trust.*

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder.

#### SECTION 6.07. *Compensation and Reimbursement.*

The Issuer agrees,

(1) to pay to the Trustee from time to time such compensation as agreed to in writing with the Issuer for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or willful misconduct, as finally adjudicated by a court of competent jurisdiction; and

(3) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense, including taxes (other than based upon, measured by, or determined by the income of the Trustee) incurred without negligence or willful misconduct on its part as finally adjudicated by a court of competent jurisdiction, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses, including reasonable attorneys' fees, of defending itself against any claim or liability in connection with the exercise or performance of any of its rights, powers or duties hereunder.

All indemnifications and releases from liability granted hereunder to the Trustee shall extend to its officers, directors, employees, agents, attorneys, custodians, successors and assigns. As security for the performance of the obligations of the Issuer under this Section, the Trustee shall have a Lien prior to the Securities upon all property and funds held or collected by the Trustee, except funds held in trust for the benefit of the Holders of particular Securities.

Without prejudice to any other rights available to the Trustee under applicable law, if the Trustee incurs expenses or renders services after the occurrence of an Event of Default specified in clause (5) or (6) of Section 5.01, the expenses and the compensation for the services will be intended to constitute expenses of administration under Bankruptcy Law.

The provisions of this Section 6.07 shall survive the resignation or removal of the Trustee and the satisfaction, discharge or termination of this Indenture.

“Trustee” for the purposes of this Section 6.07 shall include any predecessor Trustee and the Trustee in each of its capacities hereunder and each agent, custodian and other person employed to act hereunder; provided, however, that the negligence or willful misconduct of any Trustee hereunder shall not affect the rights of any other Trustee hereunder.

**SECTION 6.08. *Disqualification; Conflicting Interests.***

The Trustee for the Securities of any series issued hereunder shall be subject to the provisions of Section 310(b) of the Trust Indenture Act during the period of time provided for therein. In determining whether the Trustee has a conflicting interest as defined in Section 310(b) of the Trust Indenture Act with respect to the Securities of any series, there shall be excluded this Indenture with respect to Securities of any particular series of Securities other than that series of Securities, and any other indenture of the Issuer if the requirements of Section 310(b) are met. Nothing herein shall prevent the Trustee from filing with the Commission the application referred to in the second to last paragraph of Section 310(b) of the Trust Indenture Act.

**SECTION 6.09. *Corporate Trustee Required; Eligibility.***

There shall at all times be a corporate Trustee hereunder which complies with the requirements of Section 310(a) of the Trust Indenture Act, having a combined capital and surplus of at least \$50,000,000, subject to supervision or examination by federal or state authority and having a Corporate Trust Office in the continental United States. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

**SECTION 6.10. *Resignation and Removal; Appointment of Successor.***

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 6.11.

(b) The Trustee may resign at any time with respect to the Securities of one or more series by giving 30 days’ written notice thereof to the Issuer. If the instrument of acceptance by a successor Trustee required by Section 6.11 shall not have been delivered to the Trustee within 10 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction at the Issuer’s expense for the appointment of a successor Trustee with respect to the Securities of such series.

(c) The Trustee may be removed at any time with respect to the Securities of any series upon 30 days’ notice by Act of the Holders of a majority in Principal Amount of the Outstanding Securities of such series, delivered to the Trustee and to the Issuer.

(d) If at any time:

(1) the Trustee shall fail to comply with Section 6.08 after written request therefor by the Issuer or by any Holder who has been a bona fide Holder of a Security for at least six months, or

(2) the Trustee shall cease to be eligible under Section 6.09 and shall fail to resign after written request therefor by the Issuer or by any such Holder, or

(3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, (i) the Issuer by an Officers’ Certificate, Board Resolution, or supplemental indenture may remove the Trustee with respect to all Securities, or (ii) subject to Section 5.14, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Securities and the appointment of a successor Trustee or Trustees.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause with respect to the Securities of one or more series, the Issuer, shall promptly appoint a successor Trustee or Trustees with respect to the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of such series and that at any time there shall be only one Trustee with respect to the Securities of any particular series) and shall comply with the applicable requirements of Section 6.11. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Securities of any series shall be appointed by Act of the Holders of a majority in Principal Amount of the Outstanding Securities of such series delivered to the Issuer and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in accordance with the applicable requirements of Section 6.11, become the successor Trustee with respect to the Securities of such series and to that extent supersede the successor Trustee appointed by the Issuer. If no successor Trustee with respect to the Securities of any series shall have been so appointed by the Issuer or the Holders and accepted appointment in the manner required by Section 6.11, any Holder who has been a bona fide Holder of a Security of such series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

(f) The Issuer shall give notice of each resignation and each removal of the Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series by mailing written notice of such event to all Holders of Securities of such series as their names and addresses appear in the Security Register. Each notice shall include the name of the successor Trustee with respect to the Securities of such series and the address of its Corporate Trust Office.

#### SECTION 6.11. *Acceptance of Appointment by Successor.*

(a) In case of the appointment hereunder of a successor Trustee with respect to all Securities, every such successor Trustee so appointed shall execute, acknowledge and deliver to the Issuer and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Issuer or the successor Trustee, such retiring Trustee shall, upon payment of amounts owed to it under Section 6.07, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

(b) In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Issuer, the retiring Trustee and each successor Trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (1) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee; and upon execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates; but, on request of the Issuer or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates.

(c) Upon request of any such successor Trustee, the Issuer shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all rights, powers and trusts referred to in paragraph (a) or (b) of this Section, as the case may be.

(d) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

#### SECTION 6.12. *Merger, Conversion, Consolidation or Succession to Business.*

Any corporation or association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or association to which all or substantially all of the corporate trust business of the Trustee may be sold or otherwise transferred, shall be the successor trustee hereunder without any further act. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

#### SECTION 6.13. *Preferential Collection of Claims Against Issuer.*

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

### ARTICLE SEVEN

#### HOLDERS' LISTS AND REPORTS BY TRUSTEE AND ISSUER

##### SECTION 7.01. *Issuer to Furnish Trustee Names and Addresses of Holders.*

The Issuer will furnish or cause to be furnished to the Trustee

(a) semi-annually, either (i) not later than June 1 and December 1 in each year in the case of Original Issue Discount Securities of any series which by their terms do not bear interest prior to Maturity, or (ii) not more than 15 days after each Regular Record Date in the case of Securities of any other series, a list, each in such form as the Trustee may reasonably require, of the names and addresses of the Holders of Securities of such series as of the preceding June 1 or December 1 or as of such Regular Record Date, as the case may be; and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Issuer of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished;

*provided, however,* that so long as the Trustee is the Security Registrar with respect to Securities of any series, no such lists need be furnished.

##### SECTION 7.02. *Preservation of Information; Communications to Holders.*

(a) The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 7.01 and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar. The Trustee may destroy any list furnished to it as provided in Section 7.01 upon receipt of a new list so furnished.

(b) The rights of Holders to communicate with other Holders with respect to their rights under this Indenture or under the Securities and the corresponding rights and duties of the Trustee shall be provided by the Trust Indenture Act.

(c) Every Holder of Securities, by receiving and holding the same, agrees with the Issuer and the Trustee that neither the Issuer nor the Trustee nor any agent of either of them shall be held accountable by reason of any disclosure or information as to the names and addresses of Holders made pursuant to the Trust Indenture Act.

#### SECTION 7.03. *Reports by Trustee to Holders.*

Within 60 days after each May 1 beginning with May 1, 2022, and for so long as Securities remain Outstanding, the Trustee shall (at the expense of the Issuer) send to the Holders of the Securities a brief report dated as of such May 1 that complies with Section 313(a) of the Trust Indenture Act (but if no event described in Section 313(a) of the Trust Indenture Act has occurred within the twelve months preceding such May 1, no report need be transmitted). The Trustee also shall comply with Section 313(b)(2) of the Trust Indenture Act. The Trustee shall also send all reports as required by Section 313(c) of the Trust Indenture Act.

A copy of each report at the time of its mailing to the Holders of Securities shall be sent to the Issuer and filed with the Commission and each stock exchange on which the Securities are listed, if any, in accordance with Section 313(d) of the Trust Indenture Act. The Issuer shall promptly notify the Trustee in writing when the Securities are listed on any stock exchange or delisting thereof.

### ARTICLE EIGHT

#### CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

##### SECTION 8.01. *Merger, Consolidation, etc. Only on Certain Terms.*

The Issuer shall not consolidate with or merge into any other Person or convey, transfer or lease its properties and assets substantially as an entirety to any Person, unless:

(1) if the Issuer shall consolidate with or merge into another Person or convey, transfer or lease its properties and assets substantially as an entirety to any Person, the Person formed by such consolidation or into which the Issuer is merged or the Person which acquires by conveyance or transfer, or which leases, the properties and assets of the Issuer, as the case may be, substantially as an entirety shall be a Person organized and existing under the laws of any United States jurisdiction and any state thereof or the District of Columbia, and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form satisfactory to the Trustee, all the obligations of the Issuer under this Indenture and the Securities and immediately after such transaction no Event of Default shall have happened and be continuing; and

(2) the Issuer has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

##### SECTION 8.02. *Successor Corporation Substituted.*

Upon any consolidation by the Issuer with or merger by the Issuer into any other Person or any conveyance, transfer or lease of the properties and assets of the Issuer substantially as an entirety in accordance with Section 8.01, the successor Person formed by such consolidation or into which the Issuer is merged or to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Issuer under this Indenture with the same effect as if such successor Person had been named as the Issuer herein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Indenture and the Securities.

## ARTICLE NINE

### SUPPLEMENTAL INDENTURES

#### SECTION 9.01. *Supplemental Indentures without Consent of Holders.*

Without the consent of any Holders, the Issuer and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(1) to evidence the succession of another Person to the Issuer and the assumption by any such successor of the covenants of the Issuer herein and in the Securities (pursuant to Article Eight, if applicable); or

(2) to add to the covenants of the Issuer for the benefit of the Holders of all or any series of Securities (and if such covenants are to be for the benefit of less than all series of Securities, stating that such covenants are expressly being included solely for the benefit of such series) or to surrender any right or power herein conferred upon the Issuer; or

(3) to add any additional Events of Default (and if such Events of Default are to be applicable to less than all series of Securities, stating that such Events of Default are expressly being included solely to be applicable to such series); or

(4) to add to or change any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of Securities in bearer form, registrable or not registrable as to Principal, and with or without interest coupons, or to provide for uncertificated Securities (so long as any "registration-required obligation" within the meaning of section 163(f)(2) of the Internal Revenue Code of 1986, as amended, is in registered form for purposes of such section); or

(5) to change or eliminate any of the provisions of this Indenture, provided that any such change or elimination shall become effective only when there is no Security Outstanding of any series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision; or

(6) to secure the Securities; or

(7) to establish the form or terms of Securities of any series as permitted by Sections 2.01 and 3.01; or

(8) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 6.11(b); or

(9) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein, to eliminate any conflict between the terms hereof and the Trust Indenture Act or to make any other provision with respect to matters or questions arising under this Indenture, *provided* that an Officers' Certificate shall be delivered to the Trustee stating such action shall not adversely affect the interests of the Holders of Securities of any series in any material respect.

#### SECTION 9.02. *Supplemental Indentures with Consent of Holders.*

With the consent of the Holders of not less than a majority in Principal Amount of the Outstanding Securities of each series affected by such supplemental indenture, by Act of said Holders delivered to the Issuer and the Trustee, the Issuer and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provision to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of Securities of such series under this Indenture; *provided, however*, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security affected thereby,

(1) change the Stated Maturity of the Principal of, or any installment of principal of or interest on, any Security, or reduce the Principal amount thereof or the rate of interest thereon or any premium payable thereon, or



reduce the amount of the Principal of the Security that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.02, or adversely affect any right of repayment at the option of the Holder of any Security, or reduce the amount of, or postpone the date fixed for, the payment of any sinking fund or analogous obligation, or impair the right to commence suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), in each case other than the amendment or waiver in accordance with the terms of this Indenture of any covenant or related definition included pursuant to Section 3.01 that provides for an offer to repurchase any Securities of a series upon a sale of assets or change of control transaction, or

(2) reduce the percentage in Principal Amount of the Outstanding Securities of any series, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences) provided for in this Indenture, or

(3) modify any of the provisions of this Section, Section 5.13 or Section 10.07, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby.

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

It shall not be necessary for any Act of the Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

#### SECTION 9.03. *Execution of Supplemental Indentures.*

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall receive, and shall be fully protected in relying upon, in addition to the documents required by Section 1.02 hereof, an Officers' Certificate and an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture and an Opinion of Counsel stating that the supplemental indenture is the legal, valid and binding obligation of the Issuer. The Trustee in its sole discretion may, but shall not be obligated to, enter into any such supplemental indenture which adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

#### SECTION 9.04. *Effect of Supplemental Indentures.*

Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

#### SECTION 9.05. *Conformity with Trust Indenture Act.*

Every supplemental indenture executed pursuant to this Article shall conform to the requirements of the Trust Indenture Act as then in effect.

#### SECTION 9.06. *Reference in Securities to Supplemental Indentures.*

Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Issuer, bear a notation as to any matter provided for in such supplemental indenture. If the Issuer shall so determine, new Securities of any series so modified as to conform, in the opinion of the Issuer, to any such supplemental indenture may be prepared and executed by the Issuer and authenticated and delivered by the Trustee in exchange for Outstanding Securities of such series.

SECTION 9.07. *Notice of Supplemental Indenture.*

Promptly after the execution by the Issuer and the Trustee of any supplemental indenture pursuant to Section 9.02, the Issuer shall transmit, in the manner and to the extent provided in Section 1.06, to all Holders of any series of the Securities affected thereby, a notice setting forth in general terms the substance of such supplemental indenture. The failure to give such notice to all Holders of Securities of such series, or any defect therein, shall not impair or affect the validity of such supplemental indenture.

**ARTICLE TEN**

**COVENANTS**

SECTION 10.01. *Payment of Principal, Premium and Interest.*

The Issuer covenants and agrees for the benefit of the Holders of Securities of each series that it will duly and punctually pay the Principal of (and premium, if any) and interest, if any, on the Securities of that series in accordance with the terms of the Securities of that series and this Indenture. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Issuer or one of its Subsidiaries, holds as of 10:00 a.m. New York City time on the due date money deposited by the Issuer in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due. The Issuer shall be responsible for making calculations called for under this Indenture and the Securities, including but not limited to determination of redemption price, premium, if any or other amounts payable on the Securities. The Issuer will make the calculations in good faith and, absent manifest error, its calculations will be final and binding on the Holders. The Issuer will provide a schedule of its calculations to the Trustee when requested by the Trustee, and the Trustee is entitled to rely conclusively on the accuracy of the Issuer's calculations without independent verification.

SECTION 10.02. *Maintenance of Office or Agency.*

The Issuer will maintain in each Place of Payment for any series of Securities an office or agency where Securities of that series may be surrendered for registration of transfer and exchange, where notices and demands to or upon the Issuer in respect of the Securities of that series and this Indenture may be served and where the Securities may be presented for payment.

The Issuer will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Issuer hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

The Issuer may also from time to time designate one or more other offices or agencies where the Securities of one or more series may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain an office or agency in each Place of Payment for Securities of any series for such purposes. The Issuer will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

SECTION 10.03. *Money for Securities Payments to Be Held in Trust.*

If the Issuer shall at any time act as Paying Agent with respect to any series of Securities, it will, on or before each due date of the Principal of (and premium, if any) or interest, if any, on the Securities of that series, set aside, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the Principal (and premium, if any) or interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee in writing of its action or failure so to act or of any failure by the Issuer (or by any other obligor on the Securities of that series) to make any payment of the Principal of (and premium, if any) or interest, if any, on the Securities of such series when the same shall be due and payable.

Whenever the Issuer shall have one or more Paying Agents for any series of Securities, it will, at or prior to the opening of business on each due date of the Principal of (and premium, if any) or interest on any Securities of that series, deposit with a Paying Agent a sum sufficient to pay the Principal (and premium, if any) or interest, if any, so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such Principal (and premium, if any) or interest, and (unless such Paying Agent is the Trustee) the Issuer will promptly notify the Trustee in writing of its action or failure so to act.

If the Issuer shall appoint a Paying Agent other than the Trustee for any series of Securities, it will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will:

- (1) hold all sums held by it for the payment of the Principal of (and premium, if any) or interest, if any, on the Securities of that series in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;
- (2) give the Trustee written notice of any default by the Issuer (or any other obligor upon the Securities of that series) in the making of any payment of Principal (and premium, if any) or interest, if any, on the Securities of that series; and
- (3) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Issuer may at any time, for the purpose of obtaining the satisfaction and discharge with respect to one or more or all series of Securities hereunder or for any other reason, pay or by Issuer Order direct any Paying Agent to pay, to the Trustee all sums held in trust for any such series by the Issuer or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Issuer or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Issuer in trust for the payment of the Principal of (and premium, if any) or interest on any Security of any series and remaining unclaimed for two years after such Principal (and premium, if any) or interest has become due and payable shall be paid to the Issuer on Issuer Request subject to applicable abandoned property and escheat law, or (if then held by the Issuer) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Issuer for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as trustee thereof, shall thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Issuer cause to be published once a week for two consecutive weeks (in each case on any day of the week) in an Authorized Newspaper notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Issuer.

#### SECTION 10.04. *Corporate Existence.*

Subject to Article Eight, the Issuer will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

#### SECTION 10.05. *Payment of Taxes and Other Claims.*

The Issuer will, and will cause each Significant Subsidiary to, pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (1) all taxes, assessments and governmental charges levied or imposed upon the Issuer or any such Significant Subsidiary or upon the income, profits or property of the Issuer or any such Significant Subsidiary, and (2) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon the property of the Issuer or any such Significant Subsidiary; provided, however, that neither the Issuer nor any Significant Subsidiary shall be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings.

#### SECTION 10.06. *Maintenance of Properties.*

The Issuer will cause all its properties used or useful in the conduct of its business to be maintained and kept in reasonably good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Issuer may be necessary so that the business carried on in connection therewith may be properly conducted at all times; provided, however, that nothing in this Section shall prevent the Issuer from discontinuing the operation or maintenance of any of its properties if such discontinuance is, in the judgment of the Issuer desirable in the conduct of its business and not disadvantageous in any material respect to the Holders of the Securities of any series.

#### SECTION 10.07. *Waiver of Certain Covenants.*

The Issuer may omit in any particular instance to comply with any term, provision or condition set forth in Sections 10.04, 10.05 and 10.06 or established pursuant to Section 3.01 or 9.01, with respect to the Securities of any series, if before the time for such compliance the Holders of at least a majority in Principal Amount of the Outstanding Securities of such series shall, by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, the Obligations of the Issuer and the duties of the Trustee in respect of any such term, provision or condition shall remain in full force and effect.

#### SECTION 10.08. *Statement by Officers as to Default.*

The Issuer will, within 120 days after the close of each fiscal year, commencing with the first fiscal year ending after the issuance of Securities of any series under this Indenture, file with the Trustee a certificate of the principal executive officer, the principal financial officer or the principal accounting officer of the Issuer, covering the period from the date of issuance of such Securities to the end of the fiscal year in which such Securities were issued, in the case of the first such certificate, and covering the preceding fiscal year in the case of each subsequent certificate, and stating whether or not, to the knowledge of the signer, the Issuer has complied with all conditions and covenants on its part contained in this Indenture, and, if the signer has obtained knowledge of any default by the Issuer in the performance, observance or fulfillment of any such condition or covenant, specifying each such default and the nature thereof.

The Issuer shall, so long as any Securities are Outstanding, deliver to the Trustee, within 30 days after becoming aware of the occurrence of any default or Event of Default, an Officers' Certificate setting forth the details of such default or Event of Default and the action which the Issuer proposes to take with respect thereto. For the purpose of this Section, the term "default" means any event which is, or after notice or lapse of time or both would become, an Event of Default with respect to Securities of a series then Outstanding.

For the purpose of this Section 10.08, compliance shall be determined without regard to any grace period or requirement of notice provided pursuant to the terms of this Indenture.

#### SECTION 10.09. *Reports.*

The Issuer shall:

(1) file with the Trustee, within 15 days after the Issuer is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Issuer may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934; or, if the Issuer is not required to file information, documents or reports pursuant to either of said Sections, then it shall file with the Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

(2) file with the Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such additional information, documents and reports with respect to compliance by the Issuer with the conditions and covenants of this Indenture as may be required from time to time by such rules and regulations; and

(3) transmit by mail to all Holders, as their names and addresses appear in the Security Register, within 30 days after the filing thereof with the Trustee, such summaries of any information, documents and reports required to be filed by the Issuer pursuant to paragraphs (1) and (2) of this Section as may be required by rules and regulations prescribed from time to time by the Commission.

The Issuer shall be deemed to have complied with this section to the extent that such information, documents and reports are filed with the Commission via EDGAR (or any successor electronic delivery procedure). Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive or actual notice or knowledge of any information contained therein or determinable from information contained therein, including the Issuer's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

#### SECTION 10.10. *Further Assurances.*

From time to time whenever reasonably demanded by the Trustee, the Issuer will make, execute and deliver or cause to be made, executed and delivered any and all such further and other instruments and assurances as may be reasonably necessary or proper to carry out the intention or facilitate the performance of the terms of this Indenture.

#### SECTION 10.11 *Foreign Account Tax Compliance Act (FATCA).*

In order to comply with applicable tax laws, rules and regulations (inclusive of directives, guidelines and interpretations promulgated by competent authorities) in effect from time to time ("Applicable Law"), the Issuer agrees (i) to provide to the Trustee sufficient information about holders or other applicable parties and/or transactions (including any modification to the terms of such transactions) so the Trustee can determine whether it has tax related obligations under Applicable Law, and (ii) that the Trustee shall be entitled to make any withholding or deduction from payments under the Indenture to the extent necessary to comply with Applicable Law.

### **ARTICLE ELEVEN**

#### **REDEMPTION OF SECURITIES**

##### SECTION 11.01. *Applicability of Article.*

Securities of any series which are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 3.01 for Securities of any series) in accordance with this Article.

##### SECTION 11.02. *Election to Redeem; Notice to Trustee.*

The election of the Issuer to redeem any Securities shall be evidenced by an Officers' Certificate. In case of any redemption at the election of the Issuer of all or less than all the Securities of any series, the Issuer shall, at least five days prior to the date on which notice of such redemption is to be given to the Holders of such Securities (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of the Redemption Date fixed by the Issuer and of the Principal Amount of Securities of such series to be redeemed. In the case of any redemption of Securities prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, the Issuer shall furnish the Trustee with an Officers' Certificate evidencing compliance with such restriction.

##### SECTION 11.03. *Selection by Trustee of Securities to Be Redeemed.*

If less than all the Securities of any series are to be redeemed, the particular Securities to be redeemed shall be selected not more than 45 days prior to the Redemption Date, from the Outstanding Securities of such series not previously called for redemption, in the case of definitive Securities by lot, and in the case of Global Securities in

accordance Applicable Procedures and which may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Securities of that series or any integral multiple thereof) of the Principal Amount of Securities of such series of a denomination larger than the minimum authorized denomination for Securities of that series; *provided, however*, that Securities of such series registered in the name of the Issuer shall be excluded from any such selection for redemption until all Securities of such series not so registered shall have been previously selected for redemption.

The Trustee shall promptly notify the Issuer in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the Principal Amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Securities redeemed or to be redeemed only in part, to the portion of the Principal Amount of such Securities which has been or is to be redeemed.

#### SECTION 11.04. *Notice of Redemption.*

Notice of redemption shall be given not less than 15 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed.

All notices of redemption shall identify the Securities to be redeemed (including CUSIP numbers), the paragraph of the Securities and/or Section of this Indenture pursuant to which the Securities called for redemption are being redeemed and shall state:

(1)the Redemption Date,

(2)the Redemption Price, or if not then ascertainable, the manner of calculation thereof,

(3)if less than all the Outstanding Securities of any series are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the particular Securities to be redeemed,

(4)that on the Redemption Date the Redemption Price will become due and payable upon each such Security to be redeemed and, unless the Issuer defaults that interest thereon will cease to accrue on and after said date,

(5)that interest, if any, accrued to the date fixed for redemption will be paid as specified in said notice,

(6)the place or places where such Securities are to be surrendered for payment of the Redemption Price,

(7)that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Securities; and

(8)that the redemption is for a sinking fund, if such is the case.

Notice of redemption of Securities to be redeemed at the election of the Issuer shall be given by the Issuer or, at the Issuer's request, by the Trustee in the name and at the expense of the Issuer; provided, however, that if notice is to be given by the Trustee, the Issuer shall have delivered such request to the Trustee at least 5 days prior to the date on which notice is to be given to the Holders of such Securities (unless a shorter period shall be satisfactory to the Trustee) together with the notice to be given setting forth the information to be stated therein as provided in the preceding paragraph..

#### SECTION 11.05. *Deposit of Redemption Price.*

On or prior to 10 a.m. New York City time, on any Redemption Date, the Issuer shall deposit with the Trustee or with a Paying Agent (or, if the Issuer is acting as Paying Agent, segregate and hold in trust as provided in Section 10.03) an amount of money sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest to but excluding the Redemption Date, all the Securities which are to be redeemed on that date.

**SECTION 11.06. *Securities Payable on Redemption Date.***

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the Redemption Price and accrued interest) such Securities shall cease to bear interest. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Issuer at the Redemption Price, together with accrued interest to but excluding the Redemption Date; *provided, however*, that installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 3.07.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the Principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

**SECTION 11.07. *Securities Redeemed in Part.***

Any Security which is to be redeemed only in part shall be surrendered at a Place of Payment therefor (with, if the Issuer or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Issuer and the Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing), and the Issuer shall execute, and the Trustee shall authenticate and deliver to the Holder of such Security without service charge, a new Security or Securities of the same series, of any authorized denomination as requested by such Holder, in aggregate Principal Amount equal to and in exchange for the unredeemed portion of the Principal of the security so surrendered. Securities in denominations larger than the minimum authorized denomination therefor may be redeemed in part, but only in whole multiples of \$1,000.

**SECTION 11.08. *Securities No Longer Outstanding After Notice to Trustee and Deposit of Cash.***

If the Issuer, having given notice to the Trustee as provided in Section 11.02, shall have deposited with the Trustee or a Paying Agent, for the benefit of the Holders of any Securities of any series or portions thereof called for redemption in whole or in part cash or other form of payment if permitted by the terms of such Securities, in the amount necessary so to redeem all such Securities or portions thereof on the Redemption Date and provision satisfactory to the Trustee shall have been made for the giving of notice of such redemption, such Securities or portions thereof, shall thereupon, for all purposes of this Indenture, be deemed to be no longer Outstanding, and the Holders thereof shall be entitled to no rights thereunder or hereunder, except the right to receive payment of the Redemption Price, together with interest accrued to but excluding the Redemption Date, on or after the Redemption Date of such Securities or portions thereof.

**ARTICLE TWELVE**

**SINKING FUNDS**

**SECTION 12.01. *Applicability of Article.***

The provisions of this Article shall be applicable to any sinking fund for the retirement of Securities of a series except as otherwise specified as contemplated by Section 3.01 for Securities of such series.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a “mandatory sinking fund payment,” and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an “optional sinking fund payment.” If provided for by the terms of Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 12.02. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of such series.

SECTION 12.02. *Satisfaction of Sinking Fund Payments with Securities.*

The Issuer (1) may deliver Outstanding Securities of a series (other than any previously called for redemption) and (2) may apply as a credit Securities of a series which have been redeemed either at the election of the Issuer pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Securities of such series required to be made pursuant to the terms of such Securities as provided for by the terms of such series; *provided* that such Securities have not been previously so credited pursuant to the terms of such Securities. Such Securities shall be received and credited for such purpose by the Trustee at the Redemption Price specified in such Securities for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

SECTION 12.03. *Redemption of Securities for Sinking Fund.*

Not less than 30 days prior to each sinking fund payment date for any series of Securities, the Issuer will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash and the portion thereof, if any, which is to be satisfied by delivering and crediting Securities of that series pursuant to Section 12.02 and the basis for such credit and will also deliver to the Trustee any Securities to be so delivered. Not less than 15 days before each such sinking fund payment date the Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 11.03 and cause notice of the redemption thereof to be given in the name of and at the expense of the Issuer in the manner provided in Section 12.04. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 11.06 and 11.07.

**ARTICLE THIRTEEN**

**IMMUNITY OF INCORPORATORS, STOCKHOLDERS, SHAREHOLDERS,  
OFFICERS AND DIRECTORS**

SECTION 13.01. *Exemption from Individual Liability.*

No recourse under or upon any obligation, covenant or agreement of this Indenture, or of any Security, or for any claim based thereon or otherwise in respect thereof, shall be had against any incorporator, stockholder, shareholder, officer or director, as such, past, present or future, of the Issuer or of any successor Person, either directly or through the Issuer, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that this Indenture and the obligations issued hereunder are solely corporate obligations of the Issuer, and that no such personal liability whatever shall attach to, or is or shall be incurred by, the incorporators, stockholders, shareholders, officers or directors, as such, of the Issuer or of any successor Person, or any of them, because of the creation of the Indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Securities or implied therefrom; and that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such incorporator, stockholder, shareholder, officer or director, as such, because of the creation of the Indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in this Indenture or in any of the Securities or implied therefrom, are hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issuance of the Securities.



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## ARTICLE FOURTEEN

### MISCELLANEOUS

#### SECTION 14.01. *Counterparts.*

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

#### SECTION 14.02. *Signatures*

The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to this Indenture or any document to be signed in connection with this Indenture, including by the Trustee, shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means.

**SIGNATURES**

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

ARTHUR J. GALLAGHER & CO.

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

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., AS TRUSTEE

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

March 8, 2021

Arthur J. Gallagher & Co.  
2850 Golf Road  
Rolling Meadows, Illinois 60008

Re: *Arthur J. Gallagher & Co.*  
*Registration Statement on Form S-3*

Ladies and Gentlemen:

We have acted as counsel to Arthur J. Gallagher & Co., a Delaware corporation (the “Company”), in connection with the preparation and filing with the Securities and Exchange Commission (the “Commission”) of a Registration Statement on Form S-3 (the “Registration Statement”) under the Securities Act of 1933, as amended (the “Securities Act”), relating to the registration under the Securities Act and the proposed issuance and sale from time to time pursuant to Rule 415 under the Securities Act, together or separately and in one or more series (if applicable) of:

- (i) the Company’s unsecured debt securities (the “Debt Securities”);
- (ii) guarantees by the Company of debt securities (the “Guarantees”);
- (iii) shares of the Company’s common stock, par value \$1.00 per share (the “Common Stock”);
- (iv) shares of the Company’s preferred stock, no par value (the “Preferred Stock”);
- (v) warrants for the purchase of Common Stock, Preferred Stock, Depositary Shares or Debt Securities (the “Warrants”);
- (vi) depositary shares each representing a fraction of a share of a particular series of Preferred Stock (the “Depositary Shares”);
- (vii) contracts for the purchase or sale of Debt Securities, Preferred Stock or Common Stock or other securities, currencies or commodities (the “Purchase Contracts”); and
- (viii) units of the Company comprised of any combination of Common Stock, Preferred Stock, Depositary Shares, Purchase Contracts or Debt Securities (the “Units”).

The Debt Securities, Guarantees, Common Stock, Preferred Stock, Warrants, Depositary Shares, Purchase Contracts and Units are collectively referred to herein as the “Securities.” The Debt Securities are to be issued under an indenture to be entered into between the Company and The Bank of New York Mellon Trust Company, N.A. (the “Trust Company”), as indenture trustee (the “Base Indenture”).

In arriving at the opinions expressed below, we have examined originals, or copies certified or otherwise identified to our satisfaction as being true and complete copies of the originals, of the form of the Base Indenture and such other documents, corporate records, certificates of officers of the Company and of public officials and other instruments as we have deemed necessary or advisable to enable us to render these opinions. In our examination, we have assumed the genuineness of all signatures, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals and the conformity to original documents of all documents submitted to us as copies. As to any facts material to these opinions, we have relied to the extent we deemed appropriate and without independent investigation upon statements and representations of officers and other representatives of the Company and others.

We have assumed without independent investigation that:

- (i) at the time any Securities are sold pursuant to the Registration Statement (the “Relevant Time”), the Registration Statement and any supplements and amendments thereto (including post-effective amendments) will be effective and will comply with all applicable laws;
- (ii) at the Relevant Time, a prospectus supplement will have been prepared and filed with the Commission describing the Securities offered thereby and all related documentation and will comply with all applicable laws;
- (iii) all Securities will be issued and sold in the manner stated in the Registration Statement and the applicable prospectus supplement;
- (iv) at the Relevant Time, all corporate or other action required to be taken by the Company to duly authorize each proposed issuance of Securities and any related documentation (including (i) the due reservation of any shares of Common Stock or Preferred Stock for issuance upon exercise, conversion or exchange of any Securities for Common Stock or Preferred Stock (a “Convertible Security”), and (ii) the execution (in the case of certificated Securities), delivery and performance of the Securities and any related documentation referred to in paragraphs 1 through 8 below) shall have been duly completed and shall remain in full force and effect;
- (v) upon issuance of any Common Stock or Preferred Stock, including upon exercise, conversion or exchange of any Convertible Security, the total number of shares of Common Stock or Preferred Stock issued and outstanding will not exceed the total number of shares of Common Stock or Preferred Stock, as applicable, that the Company is then authorized to issue under its certificate of incorporation and other relevant documents;
- (vi) in the case of Debt Securities, at the Relevant Time, the Base Indenture shall have been duly executed and delivered by the Company and all other parties thereto and duly qualified under the Trust Indenture Act of 1939, as amended; and

(vii) at the Relevant Time, a definitive purchase, underwriting or similar agreement and any other necessary agreement with respect to any Securities offered or issued will have been duly authorized by all necessary corporate or other action of the Company and duly executed and delivered by the Company and the other parties thereto.

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

1. With respect to any Debt Securities, when:
  - a. the terms and conditions of such Debt Securities have been duly established by supplemental indenture or officers' certificate in accordance with the terms and conditions of the relevant Base Indenture,
  - b. any such supplemental indenture has been duly executed and delivered by the Company and the Trust Company (together with the relevant Base Indenture, the "Indenture"), and
  - c. such Debt Securities have been executed (in the case of certificated Debt Securities), delivered and authenticated in accordance with the terms of the applicable Indenture and issued and sold for the consideration set forth in the applicable definitive purchase, underwriting or similar agreement,

such Debt Securities will be legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

2. With respect to any Guarantees, when:
  - a. a guarantee agreement relating to such Guarantee (the "Guarantee Agreement") has been duly executed and delivered by the Company and each other party thereto,
  - b. the terms of the Guarantee have been established in accordance with the Guarantee Agreement, and
  - c. the Guarantee has been duly executed and delivered in accordance with the applicable Guarantee Agreement, and the applicable definitive purchase, underwriting or similar agreement for the consideration provided for therein,

such Guarantees will be legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

3. With respect to shares of Common Stock, when:

- a. such shares of Common Stock have been duly executed (in the case of certificated shares) and delivered either (i) in accordance with the applicable definitive purchase, underwriting or similar agreement for the consideration provided for therein, or (ii) upon conversion or exercise of any Convertible Security, in accordance with the terms of such Convertible Security or the instrument governing such Convertible Security providing for such conversion or exercise, and for any additional consideration specified therein, which consideration (including any consideration paid for such Convertible Security), on a per-share basis, shall in either event not be less than the par value of the Common Stock, and
- b. any such Convertible Security was previously validly issued and is fully paid and non-assessable (in the case of an equity Security) or is a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms,

such shares of Common Stock will be validly issued, fully paid and non-assessable.

4. With respect to any shares of Preferred Stock, when:

- a. the certificate of designations relating to such Preferred Stock (the “Certificate of Designations”) has been duly executed and filed with the Office of the Secretary of State of the State of Delaware,
- b. such shares have been issued either (i) in accordance with the applicable definitive purchase, underwriting or similar agreement and for the consideration therefor provided for therein or (ii) upon exercise, conversion or exchange of any Convertible Security and for any additional consideration specified in such Convertible Security or the instrument governing such Convertible Security providing for such conversion or exercise, which consideration (including any consideration paid for such Convertible Security), on a per-share basis, shall in either event not be less than the par value of the Preferred Stock, and
- c. any such Convertible Security was previously validly issued and is fully paid and non-assessable (in the case of an equity Security) or is a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms,

such shares of Preferred Stock will be validly issued, fully paid and non-assessable.

5. With respect to any Warrants, when:
  - a. the warrant agreement relating to such Warrants (the “Warrant Agreement”), if any, has been duly executed and delivered by the Company and each other party thereto,
  - b. the terms of the Warrants have been established in accordance with the Warrant Agreement, if any, and the applicable definitive purchase, underwriting or similar agreement, and
  - c. the Warrants have been duly executed (in the case of certificated Warrants) and delivered in accordance with the Warrant Agreement, if any, and the applicable definitive purchase, underwriting or similar agreement for the consideration provided for therein,such Warrants will be legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.
6. With respect to Depositary Shares, when:
  - a. a deposit agreement relating to such Depositary Shares (“Deposit Agreement”) has been duly executed and delivered by the Company and the depositary appointed by the Company,
  - b. the terms of the Depositary Shares have been established in accordance with the Deposit Agreement, and
  - c. the depositary receipts representing the Depositary Shares have been duly executed and countersigned (in the case of certificated Depositary Shares), registered and delivered in accordance with the related Deposit Agreement and the applicable definitive purchase, underwriting or similar agreement for the consideration provided therein,the depositary receipts evidencing the Depositary Shares will be legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

7. With respect to any Purchase Contracts, when:
- a. the related purchase contract agreement (“Purchase Contract Agreement”), if any, has been duly executed by the Company and each other party thereto,
  - b. the terms of the Purchase Contracts have been established in accordance with the Purchase Contract Agreement, if any, or the applicable definitive purchase, underwriting or similar agreement,
  - c. the terms of any collateral or security arrangements relating to such Purchase Contracts have been established and the agreements thereto have been validly executed and delivered by each of the parties thereto and any collateral has been deposited with the collateral agent, if applicable, in accordance with such arrangements, and
  - d. such Purchase Contracts have been executed (in the case of certificated Purchase Contracts) and delivered in accordance with the Purchase Contract Agreement, if any, and the applicable definitive purchase, underwriting or similar agreement for the consideration provided for therein,

such Purchase Contracts will be legal, valid and binding obligations of the Company, enforceable in accordance with their terms.

8. With respect to any Units, when:
- a. the unit agreement relating to the Units (the “Unit Agreement”), if any, has been duly executed and delivered by the Company and each other party thereto,
  - b. the terms of the Units have been duly established in accordance with the Unit Agreement, if any, and the applicable definitive purchase, underwriting or similar agreement, and
  - c. the Units have been duly executed (in the case of certificated Units) and delivered in accordance with the Unit Agreement, if any, and the applicable definitive purchase, underwriting or similar agreement for the consideration provided for therein,

the Units will be legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.



The opinions expressed above are subject to the following exceptions, qualifications, limitations and assumptions:

A. We render no opinion herein as to matters involving the laws of any jurisdiction other than the State of New York and the United States of America and, for purposes of paragraphs 3 and 4 above, the Delaware General Corporation Law. We are not admitted to practice in the State of Delaware; however, we are generally familiar with the Delaware General Corporation Law as currently in effect and have made such inquiries as we consider necessary to render the opinions contained in paragraphs 3 and 4 above. This opinion is limited to the effect of the current state of the laws of the State of New York, the United States of America and, to the limited extent set forth above, the laws of the State of Delaware and the facts as they currently exist. We assume no obligation to revise or supplement this opinion in the event of future changes in such laws or the interpretations thereof or such facts.

B. The opinions above with respect to the Indenture, the Debt Securities, the Guarantees, the Guarantee Agreement, the depositary receipts representing the Depositary Shares, the Deposit Agreement, the Purchase Contracts, any Purchase Contract Agreement, the Warrants, the Warrant Agreement, the Units and the Unit Agreement (collectively, the “Documents”) are each subject to (i) the effect of any bankruptcy, insolvency, reorganization, moratorium, arrangement or similar laws affecting the rights and remedies of creditors generally, including without limitation the effect of statutory or other laws regarding fraudulent transfers or preferential transfers, (ii) general principles of equity, including without limitation concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance, injunctive relief or other equitable remedies regardless of whether enforceability is considered in a proceeding in equity or at law and (iii) the provisions of Article 7 of the Certificate of Incorporation of the Company.

C. We express no opinion regarding the effectiveness of (i) any waiver of stay, extension or usury laws; (ii) provisions relating to indemnification, exculpation or contribution, to the extent such provisions may be held unenforceable as contrary to public policy or federal or state securities laws or due to the negligence or willful misconduct of the indemnified party; (iii) any purported fraudulent transfer “savings” clause; (iv) any provision in any Document waiving the right to object to venue in any court; (v) any agreement to submit to the jurisdiction of any Federal court; (vi) any waiver of the right to jury trial or (vii) any provision to the effect that every right or remedy is cumulative and may be exercised in addition to any other right or remedy or that the election of some particular remedy does not preclude recourse to one or more others.

D. To the extent relevant to our opinions in paragraphs 5, 6, 7 and 8 and not covered by our opinions in paragraphs 1, 2, 3 or 4, we have assumed that any securities, currencies or commodities underlying, comprising or issuable upon exchange, conversion or exercise of any Warrants, Depositary Shares, Purchase Contracts or Units are validly issued, fully paid and non-assessable (in the case of an equity security) or a legal, valid and binding obligation of the issuer thereof, enforceable against such issuer in accordance with its terms.

March 8, 2021

Page 8

You have informed us that you intend to issue Securities from time to time on a delayed or continuous basis, and we understand that prior to issuing any Securities pursuant to the Registration Statement (i) you will advise us in writing of the terms thereof, and (ii) you will afford us an opportunity to (x) review the operative documents pursuant to which such Securities are to be issued or sold (including the applicable offering documents), and (y) file such supplement or amendment to this opinion (if any) as we may reasonably consider necessary or appropriate.

We consent to the filing of this opinion as an exhibit to the Registration Statement, and we further consent to the use of our name under the caption “Legal Matters” in the Registration Statement and the prospectus that forms a part thereof. In giving these consents, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Gibson, Dunn & Crutcher LLP

**Consent of Independent Registered Public Accounting Firm**

We consent to the reference to our firm under the caption “Experts” in the Registration Statement (Form S-3) and related Prospectus of Arthur J. Gallagher & Co. for the registration of debt securities, guarantees, common stock, preferred stock, warrants, depository shares, purchase contracts, and units and to the incorporation by reference therein of our reports dated February 5, 2021, with respect to the consolidated financial statements of Arthur J. Gallagher & Co., and the effectiveness of internal control over financial reporting of Arthur J. Gallagher & Co. included in its Annual Report (Form 10-K) for the year ended December 31, 2020, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

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Ernst & Young LLP

Chicago, Illinois

March 8, 2021

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM T-1**

**STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939  
OF A CORPORATION DESIGNATED TO ACT AS TRUSTEE**

☐ **CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE PURSUANT TO SECTION 305(b)(2)**

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

(Exact name of trustee as specified in its charter)

(Jurisdiction of incorporation  
if not a U.S. national bank)

**400 South Hope Street  
Suite 500  
Los Angeles, California**  
(Address of principal executive offices)

**95-3571558**  
(I.R.S. employer  
identification no.)

**90071**  
(Zip code)

**ARTHUR J. GALLAGHER & CO.**  
(Exact name of obligor as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**2850 Golf Road  
Rolling Meadows, Illinois**  
(Address of principal executive offices)

**36-2151613**  
(I.R.S. employer  
identification no.)

**60008-4050**  
(Zip code)

**Debt Securities**  
(Title of the indenture securities)

**1. General information. Furnish the following information as to the trustee:**

**(a) Name and address of each examining or supervising authority to which it is subject.**

<u>Name</u>	<u>Address</u>
Comptroller of the Currency United States Department of the Treasury	Washington, DC 20219
Federal Reserve Bank	San Francisco, CA 94105
Federal Deposit Insurance Corporation	Washington, DC 20429

**(b) Whether it is authorized to exercise corporate trust powers.**

Yes.

**2. Affiliations with Obligor.**

**If the obligor is an affiliate of the trustee, describe each such affiliation.**

None.

**16. List of Exhibits.**

**Exhibits identified in parentheses below, on file with the Commission, are incorporated herein by reference as an exhibit hereto, pursuant to Rule 7a-29 under the Trust Indenture Act of 1939 (the "Act").**

1. A copy of the articles of association of The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A. (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-121948 and Exhibit 1 to Form T-1 filed with Registration Statement No. 333-152875).
2. A copy of certificate of authority of the trustee to commence business. (Exhibit 2 to Form T-1 filed with Registration Statement No.333-121948).
3. A copy of the authorization of the trustee to exercise corporate trust powers (Exhibit 3 to Form T-1 filed with Registration Statement No.333-152875).

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4. A copy of the existing by-laws of the trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-229762).
  6. The consent of the trustee required by Section 321(b) of the Act (Exhibit 6 to Form T-1 filed with Registration Statement No. 333-152875).
  7. A copy of the latest report of condition of the Trustee published pursuant to law or to the requirements of its supervising or examining authority.

SIGNATURE

Pursuant to the requirements of the Act, the trustee, The Bank of New York Mellon Trust Company, N.A., a banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Chicago, and State of Illinois, on the 5th day of March, 2021.

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

By: /s/ Mitchell L. Brumwell

Name: Mitchell L. Brumwell

Title: Vice President

Consolidated Report of Condition of  
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.  
of 400 South Hope Street, Suite 500, Los Angeles, CA 90071

At the close of business December 31, 2020, published in accordance with Federal regulatory authority instructions.

**Dollar amounts  
in thousands**

<b>ASSETS</b>	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	1,685
Interest-bearing balances	335,190
Securities:	
Held-to-maturity securities	0
Available-for-sale debt securities	77,127
Equity securities with readily determinable fair values not held for trading	0
Federal funds sold and securities	
purchased under agreements to resell:	
Federal funds sold in domestic offices	0
Securities purchased under agreements to resell	0
Loans and lease financing receivables:	
Loans and leases held for sale	0
Loans and leases, held for investment	0
LESS: Allowance for loan and lease losses	0
Loans and leases held for investment, net of allowance	0
Trading assets	0
Premises and fixed assets (including capitalized leases)	22,577
Other real estate owned	0
Investments in unconsolidated subsidiaries and associated companies	0
Direct and indirect investments in real estate ventures	0
Intangible assets	856,313
Other assets	104,906
<b>Total assets</b>	<b>\$ 1,397,798</b>



**LIABILITIES**

Deposits:	
In domestic offices	1,612
Noninterest-bearing	1,612
Interest-bearing	0
Not applicable	
Federal funds purchased and securities	
sold under agreements to repurchase:	
Federal funds purchased in domestic offices	0
Securities sold under agreements to repurchase	0
Trading liabilities	0
Other borrowed money:	
(includes mortgage indebtedness and obligations under capitalized leases)	0
Not applicable	
Not applicable	
Subordinated notes and debentures	0
Other liabilities	270,910
Total liabilities	272,522
Not applicable	

**EQUITY CAPITAL**

Perpetual preferred stock and related surplus	0
Common stock	1,000
Surplus (exclude all surplus related to preferred stock)	324,364
Not available	
Retained earnings	798,671
Accumulated other comprehensive income	1,241
Other equity capital components	0
Not available	
Total bank equity capital	1,125,276
Noncontrolling (minority) interests in consolidated subsidiaries	0
Total equity capital	1,125,276
Total liabilities and equity capital	1,397,798

I, Matthew J. McNulty, CFO of the above-named bank do hereby declare that the Reports of Condition and Income (including the supporting schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true to the best of my knowledge and belief.

Matthew J. McNulty   ) CFO

We, the undersigned directors (trustees), attest to the correctness of the Report of Condition (including the supporting schedules) for this report date and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and is true and correct.

Antonio I. Portuondo, President           )  
Michael P. Scott, Managing Director    ) Directors (Trustees)  
Kevin P. Caffrey, Managing Director    )