

YALE INDUSTRIAL PRODUCTS INC

Form S-3/A

July 25, 2013

As filed with the Securities and Exchange Commission on July 25, 2013

Registration No. 333-189924

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

Amendment No. 1

to

FORM S-3

REGISTRATION STATEMENT

UNDER THE SECURITIES ACT OF 1933

COLUMBUS McKINNON CORPORATION

Co-registrants are listed in the Table of Co-registrants on the following pages

(Exact name of registrant as specified in its charter)

New York

16-0547600

(State or other jurisdiction of incorporation or organization) (I.R.S. Employer Identification No.)

140 John James Audubon Parkway

Amherst, New York 14228-1197

(716) 689-5400

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

Alan S. Korman

Vice President, General Counsel and Corporate Secretary

Columbus McKinnon Corporation

140 John James Audubon Parkway

Amherst, New York 14228-1197

(716) 689-5400

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

Please send copies of all communications to:

Robert J. Olivieri, Esq.

Hodgson Russ LLP

The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040
(716) 856-4000

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

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, please 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, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

CALCULATION OF REGISTRATION FEE

Securities to Be Registered (1) Title of Each Class of	Amount to be Registered(1)	Proposed Maximum Aggregate Price Per Unit(2)	Proposed Maximum Aggregate Offering Price(3)	Amount of Registration Fee(4)
Common Stock, par value \$.01				
Preferred Stock, par value \$1.00				
Debt Securities				
Warrants				
Rights(5)				
Stock Purchase Contracts				
Units of the Securities listed above				
Guarantees of Debt Securities by the Subsidiary				
Guarantors (6)(7)				

Total Registration Fee	\$250,000,000	\$34,100
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An indeterminate number of or aggregate principal amount of shares of common stock, preferred stock, warrants, rights, stock purchase contracts, debt securities and units consisting of such securities of the registrant, as shall have an aggregate initial offering price not to exceed \$250,000,000 as may from time to time be issued at an indeterminate price. This registration statement also relates to an indeterminate number of shares of the registrant's common stock that may be issued upon stock splits, stock dividends or similar transactions in accordance with (1) Rule 416 of the Securities Act of 1933, as amended (the "Securities Act"). If any debt securities are issued at an original issue discount, then the debt securities registered shall include such additional debt securities as may be necessary such that the aggregate initial public offering price of all securities issued pursuant to this registration statement not exceed \$250,000,000. The securities registered also include such indeterminate amounts and numbers of common stock, preferred stock, warrants, rights, stock purchase contracts, debt securities and units as may be issued upon conversion of or exchange for debt securities that provide for such conversion or exchange.

Pursuant to General Instruction II.D of Form S-3 under the Securities Act, the proposed maximum offering price (2) per unit is not specified as to each class of securities to be registered. The proposed maximum offering price per unit will be determined from time to time by the registrant in connection with, and at the time of, the issuance of the securities registered hereunder.

(3) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457 under the Securities Act.

Pursuant to Rule 457(o) under the Securities Act of 1933, the registration fee is calculated on the maximum (4) offering price of all securities listed, and the table does not specify information by each class about the amount to be registered.

(5) Rights evidencing the right to purchase Columbus McKinnon Corporation common stock, preferred stock, debt securities warrants, stock purchase contracts or units.

(6) No separate consideration will be received for the guarantees by the Subsidiary Guarantors. Pursuant to Rule 457(n), no registration fee is required with respect to the guarantees.

(7) The term "Subsidiary Guarantors" refers to Crane Equipment & Service Inc. and Yale Industrial Products, Inc.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to Section 8(a), may determine.

Table of Co-Registrants(1)

Name(2)	State or other jurisdiction of incorporation or organization	IRS Employer Identification Number
Crane Equipment & Service Inc.	Oklahoma	73-1515437
Yale Industrial Products, Inc.	Delaware	71-0585582

(1) The Subsidiary Guarantors may guarantee the debt securities issued hereunder and are co-registrants under this registration statement

(2) The address, including zip code, and telephone number, including area code, of each of the co-registrant principal executive office is 140 John James Audubon Parkway, Amherst, New York 14228-1197, (716) 689-5400.

The information in this prospectus is not complete and may be changed. The Company may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED JULY 25, 2013

PROSPECTUS

\$250,000,000

COLUMBUS MCKINNON CORPORATION

COMMON STOCK

PREFERRED STOCK

DEBT SECURITIES

WARRANTS

RIGHTS

STOCK PURCHASE CONTRACTS

UNITS

and

GUARANTEES OF DEBT SECURITIES

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We may sell from time to time in one or more offerings up to \$250,000,000 in the aggregate of:

• shares of our common stock or preferred stock;

• our secured or unsecured debt securities, in one or more series, which may be either senior, senior subordinated or subordinated debt securities; and

• warrants;

• rights;

• stock purchase contracts; and

• units consisting of any combination of the foregoing.

We may sell any combination of these securities, in one or more offerings, up to an aggregate offering price of \$250,000,000 on terms to be determined at the time of the offering. The debt securities registered hereunder may be fully and unconditionally guaranteed by certain subsidiaries of Columbus McKinnon Corporation, which may include the Subsidiary Guarantors.

This prospectus describes some of the general terms that may apply to these securities. We will provide the specific terms of any such offering in one or more supplements to this prospectus each time we sell securities hereunder. We can only use this prospectus to offer and sell our securities by also including a prospectus supplement relating to any such offer and sale.

We may sell the securities directly to you, through agents, underwriters and broker-dealers that we select. If we use agents, underwriters or broker-dealers to sell the securities, we will name them and describe their compensation in a prospectus supplement.

Our common stock is listed on the NASDAQ Global Select Market under the symbol "CMCO." On July 8, 2013, the last reported sale price of our common stock on the NASDAQ Global Select Market was \$22.89.

You should consider carefully the risks that we have described in "Risk Factors" beginning on page 1 before deciding whether to invest in our securities.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is

We have not authorized anyone to provide you with any information or to make any representation that is different from, or in addition to, the information contained in this prospectus or any documents incorporated by reference in this prospectus. If anyone provides you with different, additional or inconsistent information, you should not rely on it. You should not assume that the information contained in this prospectus, or the information contained in any document incorporated by reference in this prospectus, is accurate as of any date other than the date of each such document, unless the information specifically indicates that another date applies.

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The distribution of this prospectus may be restricted by law in certain jurisdictions. You should inform yourself about and observe any of these restrictions. This prospectus does not constitute, and may not be used in connection with, an offer or solicitation by anyone in any jurisdiction in which the offer or solicitation is not authorized, or in which the person making the offer or solicitation is not qualified to do so, or to any person to whom it is unlawful to make the offer or solicitation.

Unless the context otherwise requires, the terms “Columbus McKinnon,” “the Company,” “the registrants,” “we,” “us” and “our” refer to Columbus McKinnon Corporation and its subsidiaries, and the term “Subsidiary Guarantors” refers to, collectively, Crane Equipment & Service Inc. and Yale Industrial Products, Inc.

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission (the “SEC”) utilizing a “shelf” registration process or continuous offering process, which allows us to offer and sell any combination of the securities described in this prospectus in one or more offerings. Using this prospectus, we may offer up to a total dollar amount of \$250,000,000 of these securities.

The types of securities that we may offer and sell from time to time by this prospectus are:

• our common stock;

• our preferred stock;

• our secured or unsecured debt securities, in one or more series, which may be either senior, senior subordinated or subordinated debt securities;

• warrants entitling the holders to purchase our common stock, preferred stock, units or debt securities;

• rights to purchase our common stock, preferred stock, units or debt securities;

• stock purchase contracts issued by us; and

• units consisting of any of the above securities.

This prospectus provides you with a general description of the securities we may offer. Each time we offer to sell securities pursuant to this registration statement and the prospectus contained herein, we will provide a prospectus supplement that will contain specific information about the terms of that offering. That prospectus supplement may include additional risk factors about us and the terms of that particular offering. Prospectus supplements may also add to, update or change the information contained in this prospectus. To the extent that any statement that we make in a prospectus supplement is inconsistent with statements made in this prospectus, the statements made in this prospectus will be deemed modified or superseded by those made in such prospectus supplement. In addition, as we describe in the section entitled “Information Incorporated by Reference,” we have filed and plan to continue to file other documents with the SEC that contain information about us and the business conducted by us and our subsidiaries. Before you decide whether to invest in any of these securities, you should read this prospectus, the prospectus supplement that further describes the offering of these securities and the information we file with the SEC.

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THE COMPANY

We are a leading global designer, manufacturer and marketer of hoists, rigging tools, cranes, actuators, and other material handling products serving a wide variety of commercial and industrial end-user markets. Our products are used to efficiently and ergonomically move, lift, position and secure objects and loads. We are the U.S. market leader in hoists, our principal line of products, as well as certain chain, forged attachment, and actuator products which we believe provides us with a strategic advantage in selling our other products. We have achieved this leadership position through strategic acquisitions, our extensive, diverse and well-established distribution channels and our commitment to product innovation and quality. We have one of the most comprehensive product offerings in the industry and we believe we have more overhead hoists in use in North America than all of our competitors combined. Additionally, we believe we are the market leader of manual hoist and actuator products in Europe, which provides us further opportunity to sell our other products through our existing distribution channels in that region. Our products are sold globally and our brand names, including CM, Coffing, Chester, Duff-Norton, Pfaff, Shaw-Box and Yale, are among the most recognized and well-respected in the marketplace

Our products include a wide variety of electric, lever, hand and air-powered hoists, hoist trolleys, winches, industrial crane systems such as bridge, gantry and jib cranes; alloy and carbon steel chain; closed-die forged attachments, such as hooks, shackles, textile slings, clamps, logging tools and load binders; industrial components, such as mechanical and electromechanical actuators and rotary unions; below-the-hook special purpose lifters; tire shredders; and light-rail systems. These products are typically manufactured for stock or assembled to order from standard components and are sold primarily through a variety of commercial distributors and to a lesser extent, directly to end-users. The diverse end-users of our products are in a variety of industries including: manufacturing, power generation and distribution, utilities, wind power, warehouses, commercial construction, oil exploration and refining, petrochemical, marine, ship building, transportation and heavy duty trucking, agriculture, logging and mining. We also serve a niche market for the entertainment industry including permanent and traveling concerts, live theater and sporting venues.

For more information about our business, please refer to the “Business” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” section of our annual report on Form 10-K for the fiscal year ended March 31, 2013 filed with the SEC and incorporated by reference in this prospectus.

Our principal executive offices are located at 140 John James Audubon Parkway, Amherst, New York 14228-1197. Our telephone number is (716) 689-5400. Our web site address is www.cmworks.com. The information on our website is not part of this prospectus.

RISK FACTORS

Investing in our securities involves risks. 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 these securities. These risks and uncertainties are described in the risk factor section of the documents that are incorporated by reference in this prospectus. Subsequent prospectus supplements may contain a discussion of additional risks applicable to an investment in us and the particular type of securities we are offering under the prospectus supplements. You should carefully consider all of the information contained in or incorporated by reference in this prospectus and in the applicable prospectus supplement before you invest in our securities.

SPECIAL NOTE REGARDING FORWARD-LOOKING INFORMATION

Some of the statements made in this prospectus and the documents incorporated herein may include “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, Section 21E of the Securities Exchange

Act of 1934 and the Private Securities Litigation Reform Act of 1995. Such statements involve known and unknown risks, uncertainties and other factors that could cause our actual results to differ materially from the results expressed or implied by such statements, including general economic and business conditions, conditions affecting the industries served by us and our subsidiaries, conditions affecting our customers and suppliers, competitor responses to our products and services, the overall market acceptance of such products and services, facility consolidations and other restructurings, our asbestos-related liability, the integration of acquisitions and other factors disclosed in our periodic reports filed with the Commission. Consequently such forward-looking statements should be regarded as our current plans, estimates and beliefs. We do not undertake and specifically decline any obligation to publicly release the results of any revisions to these forward-looking statements that may be made to reflect any future events or circumstances after the date of such statements or to reflect the occurrence of anticipated or unanticipated events

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USE OF PROCEEDS

Unless otherwise indicated in a prospectus supplement, we intend to use the net proceeds that we receive from the sale of any securities by us covered by this prospectus for general corporate purposes, which may include, among other things: reducing or refinancing indebtedness; making acquisitions of assets, businesses or securities; stock repurchases and capital expenditures; and for working capital. When specific securities are offered, the prospectus supplement relating thereto will set forth our intended use of the net proceeds that we receive from the sale of such securities. Pending the application of the net proceeds, we may invest the proceeds in marketable securities and short-term investments.

RATIO OF EARNINGS TO FIXED CHARGES

The following table sets forth our ratio of earnings to fixed charges for each of the periods indicated:

	Year Ended March 31,				
	2009	2010	2011	2012	2013
Ratio of Earnings to Fixed Charges(a)	(b)	(b)	1.3	3.1	3.8

(a) For purposes of calculating the ratio of earnings to fixed charges, earnings represents income (loss) from continuing operations before income taxes plus fixed charges. Fixed charges include interest expense, including amortization of deferred financing costs, debt extinguishment costs, capitalized interest, and the portion of operating rental expense which management believes is representative of the interest component of rent expense.

(b) For the years ended March 31, 2009 and 2010, the Company's earnings were inadequate to cover its fixed charges by approximately \$58.1 million and \$12.8 million, respectively.

DESCRIPTION OF SECURITIES

The following is a general description of the terms and provisions of the securities we may offer and sell by this prospectus. These summaries are not meant to be complete. This prospectus and the applicable prospectus supplement will contain the material terms and conditions of each security. The prospectus supplement may add, update or change the terms and conditions of the securities as described in this prospectus.

CAPITAL STOCK

Our authorized capital stock consists of 50 million shares of common stock, par value \$.01 per share, and 1 million shares of preferred stock, \$1.00 par value per share. As of July 8, 2013, there were (i) 19,649,901 shares of common stock outstanding, (ii) 773,210 shares of common stock issuable upon exercise of outstanding stock options under our long term incentive plan at a weighted average price of \$16.36 per share, (iii) 354,741 shares of common stock issuable upon vesting of restricted stock units under our long term incentive plan and (iv) 620,223 shares of common stock reserved and available for future issuance under our stock option plans and long term incentive plan. There are no shares of our preferred stock outstanding and 250,000 shares of our Series A junior participating preferred stock are reserved for issuance upon exercise of rights under our rights agreement. The following description of our capital stock is a summary only and is derived from our certificate of incorporation, which is incorporated by reference into this prospectus.

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Common Stock

Voting Rights. Each share of common stock is entitled to one vote on all matters submitted to a vote of our shareholders, including the election of directors. There is no cumulative voting. Therefore, the holders of a majority of the shares of common stock voted in an election of directors can elect all of the directors then standing for election, subject to any rights of the holders of any outstanding preferred stock, if any.

Dividends. Holders of shares of common stock are entitled to receive dividends, if, as and when such dividends are declared by our Board of Directors out of assets legally available therefor after payment of dividends required to be paid on shares of outstanding preferred stock, if any.

Liquidation. In the event of any dissolution, liquidation or winding up of our affairs, whether voluntary or involuntary, after payment of our debts and other liabilities and making provision for the holders of outstanding preferred stock, if any, our remaining assets will be distributed ratably among the holders of our common stock.

Preferred Stock

Our Board of Directors has the authority to issue preferred stock in one or more series and to establish the rights and restrictions granted to or imposed on any unissued shares of preferred stock and to fix the number of shares constituting any series without any further vote or action by our shareholders. Our Board of Directors has the authority, without approval of our shareholders, to issue preferred stock that has voting and conversion rights superior to our common stock, which could have the effect of deterring, delaying or preventing a change in control. We currently have no plans to issue any shares of preferred stock.

There are 250,000 shares of our Series A junior participating preferred stock reserved for issuance upon exercise of rights under our rights agreement.

DEBT SECURITIES AND GUARANTEES

The following description discusses the general terms and provisions of the debt securities that we may offer under this prospectus. The debt securities may be issued as senior debt securities or subordinated debt securities. The indebtedness represented by the senior debt securities will rank equally with all of our other unsecured and unsubordinated debt. The indebtedness represented by the subordinated debt securities will rank junior and be subordinate in right of payment to the prior payment in full of our senior debt, to the extent and in the manner set forth in the applicable prospectus supplement for the securities.

The senior debt securities and the subordinated debt securities will be issued under separate indentures between us and one or more U.S. banking institutions. The trustee for each series of our debt securities will be identified in the applicable prospectus supplement. We may refer to the indenture covering the senior debt securities as the “senior indenture” and the indenture covering the subordinated debt securities as the “subordinated indenture.” Together the senior indenture and the subordinated indenture are called “indentures.”

The form of the indentures are filed as exhibits to the registration statement of which this prospectus is a part. The indentures are subject to and governed by the Trust Indenture Act of 1939, or the Trust Indenture Act, and may be supplemented or amended from time to time following their execution. We have not yet selected a trustee for either of the indentures, and we have not yet executed either indenture. Prior to issuing any debt securities, we will be required to select a trustee for the applicable indenture or indentures, qualify the trustee or trustees under the Trust Indenture Act and execute the applicable indenture or indentures.

The form of each indenture gives us broad authority to set the particular terms of each series of debt securities, including the right to modify certain of the terms contained in the indenture. The particular terms of a series of debt securities and the extent, if any, to which the particular terms of the issue modify the terms of the applicable form of indenture will be described in the prospectus supplement relating to such series of debt securities.

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The following summary describes selected provisions of the indentures. This summary does not describe every aspect of the debt securities or the applicable indenture and is subject to, and qualified in its entirety by reference to, all the provisions of the applicable indenture, including the terms defined in the applicable indenture. We urge you to read the applicable indenture in its entirety. This summary is also subject to, and qualified in its entirety by reference to, the description of the particular debt securities in the applicable prospectus supplement.

General.

The indentures provide that we will be able to issue an unlimited aggregate principal amount of debt securities under the indentures, in one or more series, and in any currency or currency units. We are not required to issue all debt securities of one series at the same time and, unless otherwise provided, we may reopen a series, without the consent of the holders of the debt securities of that series, for issuances of additional debt securities of that series.

Prior to the issuance of each series of debt securities, the terms of the particular securities will be specified in a supplemental indenture or a resolution of our board of directors or in one or more officer's certificates pursuant to a board resolution. We will describe in the applicable prospectus supplement the terms of the debt securities being offered, including:

- the title, and the price at which we will sell, the offered debt securities;
- whether the offered debt securities are senior debt securities or subordinated debt securities;
- the aggregate principal amount of the offered debt securities;
- the date or dates on which principal will be payable or how to determine such date or dates;
 - the rate or rates or method of determination of interest;
- the date from which interest will accrue;
- the dates on which interest will be payable and any record dates for the interest payable on the interest payment dates;
- the place of payment on the offered debt securities;
- any obligation or option we have to redeem, purchase or repay the offered debt securities, or any option of the registered holder to require us to redeem or repurchase offered debt securities, and the terms and conditions upon which the offered debt securities will be redeemed, purchased or repaid;
- the currency or currencies, including composite currencies or currency units, in which payment of the principal of (or premium, if any) or interest, if any, on any of the offered debt securities will be payable if other than the currency of the United States of America;
- any index, formula or other method used to determine the amount of principal, premium, if any, or interest;
- applicable material federal income tax considerations;
- the terms and conditions upon which payment on the offered debt securities may change;
- whether the offered debt securities are defeasible;

any addition to or change in the events of default;

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- any addition to or change in the covenants in the applicable indenture;
- the terms of any right to convert the offered debt securities into common shares; and
- any other terms of the offered debt securities not inconsistent with the provisions of the applicable indenture.

The general provisions of the indentures do not contain any provisions that would limit our ability or the ability of our subsidiaries to incur indebtedness or that would afford holders of our debt securities protection in the event of a highly leveraged or similar transaction involving us or any of our subsidiaries. Please refer to the applicable prospectus supplement for information with respect to any deletions from, modifications of or additions to, the events of default described below that are applicable to the offered debt securities or any covenants or other provisions providing event risk or similar protection.

Payment.

Unless we state otherwise in the applicable prospectus supplement, we will pay interest on a debt security on each interest payment date to the person in whose name the debt security is registered as of the close of business on the regular record date relating to the interest payment date.

Unless we state otherwise in the applicable prospectus supplement, we will pay principal of and any premium on the debt securities at stated maturity, upon redemption or otherwise, upon presentation of the debt securities at the office of the applicable trustee, as our paying agent, or at other designated places. Any other paying agent initially designated for the debt securities of a particular series will be identified in the applicable prospectus supplement.

Form, Transfers and Exchanges.

The debt securities of each series will be issued only in fully registered form, without interest coupons. Unless we state otherwise in the applicable prospectus supplement, the debt securities will be issued in denominations of \$1,000 each or multiples thereof.

Subject to the terms of the applicable indenture and the limitations applicable to global securities, you may exchange or transfer debt securities at the corporate trust office of the trustee or at any other office or agency maintained by us for that purpose, without the payment of any service charge, except for any tax or governmental charge.

Global Securities.

The debt securities of any series may be issued, in whole or in part, by one or more global certificates that will be deposited with the depositary identified in the applicable prospectus supplement.

No global security may be exchanged in whole or in part for the debt securities registered in the name of any person other than the depositary for that global security or any nominee of that depositary except in the following circumstances or as otherwise provided in the applicable prospectus supplement. The depositary may discontinue providing its services as depositary with respect to the securities at any time by giving reasonable notice to us or the applicable trustee. Under such circumstances, in the event that a successor depositary is not obtained, certificates are required to be printed and delivered. In addition, we may decide to discontinue use of the system of book-entry-only transfers through a depositary. In that event, certificates will be printed and delivered to the depositary.

Unless otherwise stated in any prospectus supplement, The Depository Trust Company, or DTC, will act as depositary. Beneficial interests in global certificates will be shown on, and transfers of global certificates will be effected only through records maintained by DTC and its participants.

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Events of Default.

Unless otherwise specified in the applicable prospectus supplement, an event of default occurs with respect to debt securities of any series if:

- we do not pay any interest on any debt securities of the applicable series within 30 days of the due date (following any deferral allowed under the terms of the debt securities and elected by us);
- we do not pay principal or premium, if any, on any debt securities of the applicable series at maturity;
- we do not deposit any sinking fund payment when due by the terms of the applicable debt securities;
- we default in the performance, or are in breach, of a covenant or warranty of the applicable indenture (other than a covenant or warranty default or breach that is elsewhere specifically dealt with or which expressly has been included in the applicable indenture solely for the benefit of debt securities other than that series), and such default or breach continues for a period of 60 days after there has been given by registered or certified mail, to us by the applicable trustee or to us and the applicable trustee by the holders of at least 25% of the principal amount of debt securities of the affected series, a written notice specifying such default or breach and requiring it to be remedied;
- certain events of bankruptcy, insolvency, receivership or reorganization with respect to us occur; or
- any other event of default provided with respect to debt securities of that series occurs.

No event of default with respect to a series of debt securities necessarily constitutes an event of default with respect to the debt securities of any other series issued under the indentures.

Each indenture requires us to file annually with the applicable trustee an officers' certificate as to our compliance with all conditions and covenants under the applicable indenture. Each indenture provides that the applicable trustee may withhold notice to the holders of a series of debt securities of any default, except payment defaults on those debt securities, if it considers such withholding to be in the interest of the holders of that series of debt securities.

If an event of default occurs and is continuing with respect to any series of debt securities, then either the applicable trustee or the holders of not less than 25% in principal amount of the outstanding debt securities of that series may declare the principal amount, or, if any debt securities of that series are original issue discount securities, that portion of the principal amount of those original issue discount securities as may be specified in the terms of those original issue discount securities, of all of the debt securities of that series to be due and payable immediately, by a notice in writing to us, and to the applicable trustee if given by the holders, and upon any such declaration that principal amount, or specified amount, plus accrued and unpaid interest, and premium, if any, will become immediately due and payable. Upon payment of that amount in the currency in which the debt securities are denominated (except as otherwise provided in the applicable indenture or the applicable prospectus supplement), all of our obligations in respect of the payment of principal of the debt securities of that series will terminate.

After a declaration of acceleration has been made and before the trustee has obtained a judgment or decree for payment of the money due on any series of debt securities, the holders of not less than a majority in aggregate principal amount of the outstanding debt securities of that series, by written notice to us and the applicable trustee, may rescind and annul the declaration and its consequences, subject to any terms or conditions specified in the applicable prospectus supplement.

If an event of default results from bankruptcy, insolvency or reorganization, the principal amount of all the debt securities of a series, or that portion of the principal amount of such debt securities as may be specified in the

applicable prospectus supplement, will automatically become immediately due and payable.

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Subject to the provisions of each indenture relating to the duties of the applicable trustee, in case an event of default with respect to our debt securities of a particular series occurs and is continuing, the applicable trustee will be under no obligation to exercise any of its rights or powers under that indenture at the request, order or direction of any of the holders of debt securities of that series, unless the holders have offered to the applicable trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in complying with such request or direction. Subject to the provisions for the indemnification of the applicable trustee, the holders of a majority in principal amount of the outstanding debt securities of that series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the applicable trustee under the applicable indenture, or exercising any trust or power conferred on the applicable trustee with respect to the debt securities of that series.

Merger or Consolidation.

Each indenture provides that we may not consolidate with or merge or wind up into any other entity, whether or not we are the surviving entity, and that we may not sell, assign, convey, transfer or lease our properties and assets substantially as an entirety to any person, unless:

the entity formed by the consolidation or into which we are merged, or the person which acquires us or which leases our properties and assets substantially as an entirety, is an entity organized and existing under the laws of the United States of America or any State or territory of the United States or the District of Columbia, and expressly assumes, by supplemental indenture, the due and punctual payment of the principal of (and premium, if any) and interest on all the outstanding debt securities and the performance of all of our covenants under the applicable indenture;

immediately after giving effect to such transaction, no event of default under the applicable indenture, and no event which after notice or lapse of time or both would become an event of default, has happened and is continuing; and

all other conditions specified in the applicable prospectus supplement are met.

Modification or Waiver.

Without prior notice to or the consent of any holders, we and the applicable trustee may modify the applicable indenture for any of the following purposes:

to evidence the succession of another entity to us and the assumption by that successor of our covenants and obligations under the applicable indenture and under our debt securities issued thereunder;

to add one or more covenants or other provisions for the benefit of the holders of all or any series of debt securities, and if those covenants are to be for the benefit of less than all series, stating that those covenants are expressly being included solely for the benefit of that series, or to surrender any right or power conferred upon us;

to add any additional events of default for all or any series of debt securities, and if those events of default are to be applicable to less than all series, stating that those events of default are expressly being included solely to be applicable to that series;

to change or eliminate any provision of the applicable indenture or to add any new provision to the applicable indenture that does not adversely affect the interests of the holders;

to provide security for the debt securities of any series or to provide that any of our obligations under the debt securities or the applicable indenture shall be guaranteed and the terms and conditions for the release or substitution of the security or guarantee;

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to supplement any of the provisions of the applicable indenture to the extent necessary to permit or facilitate the defeasance and discharge of any series of debt securities, provided, that any such action will not adversely affect the interests of the holders of debt securities of that series or any other series of debt securities issued under the applicable indenture in any material respect;

to establish the form or terms of debt securities of any series as permitted by the applicable indenture;

to evidence and provide for the acceptance of appointment of a separate or successor trustee with respect to one or more series of debt securities and to add to or change any of the provisions of the applicable indenture as is necessary to provide for or facilitate the administration of the trusts thereunder by more than one trustee;

to cure any ambiguity, defect or inconsistency;

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