

## Mercury Chile Holdco LLC

(a limited liability company existing under the laws of the State of Delaware)

### Offer to Purchase for Cash

#### Any and All of its Outstanding 6.500% Senior Secured Guaranteed Notes due 2027

The Tender Offer (as defined below) will expire at 5:00 p.m., New York City time, on June 5, 2024, or any other date and time to which the Company (as defined below) extends the Tender Offer (such date and time, as it may be extended, the “*Expiration Date*”), unless earlier terminated. You must validly tender your Notes at or prior to the Expiration Date to be eligible to receive the Tender Offer Consideration (as defined below) for the Notes. The Tender Offer Consideration will be payable in cash. Tendered Notes may be withdrawn at any time prior to the earlier of (i) the Expiration Date, and (ii) if the Tender Offer is extended, the 10th business day after the commencement of the Tender Offer (the “*Withdrawal Deadline*”). Securities may also be validly withdrawn if, for any reason, the Tender Offer has not been consummated within 60 business days after commencement. The Tender Offer is subject to the satisfaction of certain conditions, as set forth under the heading “The Terms of the Tender Offer—Conditions to the Tender Offer.”

Upon the terms and subject to the conditions described in this Offer to Purchase (as it may be amended or supplemented from time to time, the “*Offer to Purchase*”) and the accompanying notice of guaranteed delivery (the “*Notice of Guaranteed Delivery*,” which together with the Offer to Purchase constitute the “*Tender Offer Documents*”), Mercury Chile Holdco LLC, a limited liability company existing under the laws of the State of Delaware (referred to herein as “*we*,” or “*us*,” or the “*Company*”), is offering to purchase for cash any and all of its outstanding its 6.500% Senior Secured Guaranteed Notes due 2027 (the “*Notes*.”) **The Tender Offer is not conditioned upon any minimum amount of Notes being tendered.** The Company refers to the offer to purchase as the “*Tender Offer*”. The Tender Offer may be amended, extended or terminated.

The Tender Offer is open to all registered holders (individually, a “*Holder*,” and collectively, the “*Holders*”) of the Notes. The purpose of the Tender Offer is to reduce the Company’s U.S. dollar-denominated debt.

The following table sets forth certain terms of the Tender Offer:

Title of Notes	CUSIP and ISIN Numbers	Aggregate Principal Amount Outstanding <sup>(1)</sup>	Tender Offer Consideration <sup>(2)</sup>
6.500% Senior Secured Guaranteed Notes due 2027	CUSIP: 58937CAA7 (144A) / U5900CAA8 (Reg S) ISIN: US58937CAA71 (144A) / USU5900CAA81 (Reg S)	U.S.\$318,278,000	U.S.\$980.00

(1) Aggregate principal amount outstanding as of May 30, 2024.

(2) Dollars per U.S.\$1,000 principal amount of Notes. Does not include Accrued Interest, which will also be payable as provided herein.

**This Offer to Purchase contains certain important information that should be read before any decision is made with respect to the Tender Offer. In particular, see “Certain Significant Consequences to Holders” beginning on page 17 for a discussion of certain factors you should consider in connection with the Tender Offer.**

*The Dealer Manager for the Tender Offer is:*

**Citigroup**

May 30, 2024

The Company's obligation to accept for payment and to pay for any of the Notes in the Tender Offer is subject to the satisfaction or waiver of the conditions to the Tender Offer. See "The Terms of the Tender Offer—Conditions to the Tender Offer." The Tender Offer is not contingent upon the tender of any minimum principal amount of Notes.

Unless the context indicates otherwise, all references to a valid tender of Notes in this Offer to Purchase shall mean that such Notes have either (i) been validly tendered at or prior to the Expiration Date and such tender has not been validly withdrawn at or prior to the Expiration Date or (ii) a Notice of Guaranteed Delivery in respect of such Notes has been validly delivered at or prior to the Expiration Date and not validly withdrawn and such Notes have been tendered at or prior to the Guaranteed Delivery Date (as defined herein).

Subject to the terms and conditions of the Tender Offer, the consideration for each U.S.\$1,000 principal amount of Notes validly tendered (and not validly withdrawn) and accepted for purchase pursuant to the Tender Offer will be the tender offer consideration set forth in the table above (the "*Tender Offer Consideration*"). No tenders will be valid if submitted after the Expiration Date.

In addition to the Tender Offer Consideration, all Holders of Notes accepted for purchase pursuant to the Tender Offer will, on the Settlement Date (as defined herein), receive accrued and unpaid interest, if any, on such Notes from the last interest payment date to, but not including, the Settlement Date ("*Accrued Interest*"). The Company will gross up the amounts due in respect of Accrued Interest pursuant to the same methodology specified in the indenture governing the Notes (the "*Indenture*").

The Tender Offer commenced on the date of this Offer to Purchase and will expire on the Expiration Date, unless extended or earlier terminated by the Company. No tenders will be valid if submitted after the Expiration Date. If a Nominee holds your Notes, such Nominee may have an earlier deadline for accepting the offer. You should promptly contact such Nominee that holds your Notes to determine its deadline. The Tender Offer is open to all registered Holders of the Notes to whom it is legal to make such offer.

The Company reserves the right, but is under no obligation, subject to the satisfaction or waiver of the conditions to the Tender Offer, to accept for purchase any or all of the Notes validly tendered at any point following the Expiration Date (the date on which such Notes are purchased, the "*Settlement Date*"). The Settlement Date with respect to the Tender Offer will be determined at the Company's option and is currently expected to occur on June 10, 2024, the third business day following the Expiration Date, subject to all conditions to the Tender Offer having been either satisfied or waived by the Company. Any Notes that are tendered and accepted in the Tender Offer will be retired and cancelled.

**Notwithstanding any other provision of the Tender Offer, the Company's obligation to accept for purchase, and to pay for, any Notes validly tendered pursuant to the Tender Offer, is conditioned upon satisfaction of the General Conditions (as defined herein). The General Conditions to the Tender Offer are for the sole benefit of the Company and may be asserted by the Company, regardless of the circumstances giving rise to any such condition (including any action or inaction by the Company). The Company reserves the right, in its sole discretion, to waive any and all conditions of the Tender Offer at or prior to the Expiration Date. The Tender Offer is not subject to a minimum principal amount of Notes being tendered. See "The Terms of the Tender Offer—Conditions to the Tender Offer."**

Withdrawal rights will terminate on the Withdrawal Deadline, unless extended pursuant to applicable law. Accordingly, following the Withdrawal Deadline, any Notes validly tendered (whether before, on or after the Withdrawal Deadline) may no longer be validly withdrawn. For the withdrawal of a tendered Note to be valid, such withdrawal must comply with the procedures set forth in "The Terms of the Tender Offer—Withdrawal of Tenders."

The Company reserves the right, subject to applicable law, to (a) extend the Withdrawal Deadline or Expiration Date to a later date and time as announced by the Company; (b) waive or modify in whole or in part any and all conditions to the Tender Offer; (c) delay the acceptance for purchase of any Notes or delay the purchase of any Notes; or (d) otherwise modify or terminate the Tender Offer. In the event that the Tender Offer is terminated or otherwise not completed, the Tender Offer Consideration will not be paid or become payable to Holders of the Notes, without regard to whether such Holders have validly tendered their Notes (in which case, such tendered Notes will be promptly returned to Holders). The Company will publicly announce any extension, amendment or termination in the manner described under "The Terms of the Tender Offer—Announcements." There can be no assurance that the Company will exercise its right to extend, terminate or amend the Tender Offer. See "The Terms

of the Tender Offer—Expiration Date; Extension; Termination and Amendment.

Pursuant to Rule 14e-1 under the U.S. Securities Exchange Act of 1934 (the “*Exchange Act*”), if the Company increases or decreases any portion of the Tender Offer Consideration for the Notes, then it will extend the Tender Offer, to the extent required by applicable law, and, if required by applicable law, extend the Withdrawal Deadline.

See “Taxation” for a discussion of certain tax matters that should be considered in evaluating the Tender Offer.

**NONE OF THE COMPANY, THE DEALER MANAGER, THE TENDER AND INFORMATION AGENT, THE TRUSTEE OR THEIR RESPECTIVE AFFILIATES IS MAKING ANY RECOMMENDATION AS TO WHETHER HOLDERS SHOULD TENDER ANY NOTES IN RESPONSE TO THE TENDER OFFER. HOLDERS MUST MAKE THEIR OWN DECISION AS TO WHETHER TO PARTICIPATE IN THE TENDER OFFER, AND, IF SO, THE PRINCIPAL AMOUNT OF NOTES TO TENDER.**

**If you do not tender your Notes or if you tender Notes that are not accepted for purchase, they will remain outstanding. If the Company consummates the Tender Offer, the trading market for the Notes may be significantly more limited. For a discussion of this and other risks, see “Certain Significant Consequences to Holders.”**

## IMPORTANT DATES

You should take note of the following dates in connection with the Tender Offer:

<b>Date</b>	<b>Calendar Date</b>	<b>Event</b>
Commencement Date	At or prior to 10:00 a.m., New York City time, May 30, 2024.	The day the Tender Offer is announced and the Offer to Purchase is made available to Holders.
Withdrawal Deadline	The earlier of (i) the Expiration Date, and (ii) if the Tender Offer is extended, the 10th business day after the commencement of the Tender Offer.	The last time and day for you to validly withdraw tenders of the Notes, provided that Notes may also be validly withdrawn by following the procedures described in this Offer to Purchase and the Notice of Guaranteed Delivery if, for any reason, the Tender Offer has not been consummated within 60 business days after commencement.
Expiration Date	5:00 p.m., New York City time, June 5, 2024, unless extended or earlier terminated by the Company.	The deadline for Holders to validly tender Notes or deliver a duly completed Notice of Guaranteed Delivery in order to be eligible to receive the Tender Offer Consideration on the Settlement Date.
Guaranteed Delivery Date	5:00 p.m., New York City time, on the second business day after the Expiration Date, expected to be 5:00 p.m., New York City time, on June 7, 2024, unless extended by the Company (the “ <i>Guaranteed Delivery Date</i> ”).	The deadline for Holders to validly tender Notes, if any, pursuant to the guaranteed delivery procedures (the “ <i>Guaranteed Delivery Procedures</i> ”). See “The Terms of the Tender Offer—Procedures for Tendering Notes—Tender of Notes Through Guaranteed Delivery Procedures.”
Settlement Date	Expected to be the third business day after the Expiration Date. The expected Settlement Date is June 10, 2024, unless extended by the Company.	Applicable cash amounts will be paid for any Notes validly tendered and accepted by the Company, in the amounts and manner described in this Offer to Purchase.

## IMPORTANT INFORMATION

The Notes are held in book-entry form through the facilities of The Depository Trust Company (“DTC”). DTC is the only registered holder of the Notes. DTC facilitates the clearance and settlement of securities transactions through electronic book-entry changes in accounts of DTC participants. DTC participants include securities brokers and dealers, banks, trust companies, clearing corporations and other organizations. There will be no Letter of Transmittal for the Tender Offer.

A beneficial owner whose Notes are held by a broker, dealer, commercial bank, trust company or other nominee (each, a “*Nominee*”) and who desires to tender such Notes in the Tender Offer must contact its Nominee and instruct such Nominee, as Holder of the Notes, to tender its Notes on such beneficial owner’s behalf. Accordingly, beneficial owners wishing to participate in the Tender Offer should contact their Nominee as soon as possible in order to determine the time by which such owner must take action in order to so participate. See “The Terms of the Tender Offer—Procedures for Tendering Notes.”

DTC has authorized DTC participants that hold Notes on behalf of beneficial owners of Notes through DTC to tender their Notes as if they were Holders. To properly tender Notes, Global Bondholder Services Corporation, which is serving as tender and information agent in connection with the Tender Offer (the “*Tender Agent*,” the “*Information Agent*” or the “*Tender and Information Agent*”), must receive, prior to the Expiration Date:

- a timely confirmation of book-entry transfer of such Notes according to the procedure for book-entry transfer described in this Offer to Purchase; and
- an Agent’s Message (as defined herein) through the automated tender offer program (“*ATOP*”) of DTC.

Any Holder who holds Notes through Clearstream Banking, *société anonyme* (“*Clearstream*”) or Euroclear Bank, SA/NV (“*Euroclear*”), must also comply with the applicable procedures of Clearstream or Euroclear. Both Clearstream and Euroclear are indirect DTC participants.

In lieu of the above, there are Guaranteed Delivery Procedures provided for the Tender Offer. Any Holder who wishes to tender pursuant to such procedures must comply with the requirements set out in “The Terms of the Tender Offer—Procedures for Tendering Notes—Tender of Notes Through Guaranteed Delivery Procedures.” For more information regarding the procedures for tendering your Notes, see “The Terms of the Tender Offer—Procedures for Tendering Notes.”

Requests for additional copies of this Offer to Purchase and requests for assistance relating to the procedures for tendering Notes may be directed to the Tender and Information Agent at the address and telephone number on the back cover page of this Offer to Purchase. Requests for assistance relating to the terms and conditions of the Tender Offer may be directed to the Dealer Manager at its address and telephone numbers on the back cover page of this Offer to Purchase. Beneficial owners may also contact their Nominee for assistance regarding the Tender Offer.

You should read this Offer to Purchase carefully before making a decision to tender your Notes.

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**THE COMPANY HAS NOT FILED THIS OFFER TO PURCHASE WITH, AND IT HAS NOT BEEN REVIEWED BY, ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY OF ANY COUNTRY. NO AUTHORITY HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THIS OFFER TO PURCHASE AND IT IS UNLAWFUL AND MAY BE A CRIMINAL OFFENSE TO MAKE ANY REPRESENTATION TO THE CONTRARY.**

**THIS OFFER TO PURCHASE DOES NOT CONSTITUTE AN OFFER TO BUY OR THE SOLICITATION OF AN OFFER TO SELL NOTES IN ANY JURISDICTION OR IN ANY CIRCUMSTANCES IN WHICH SUCH OFFER OR SOLICITATION IS UNLAWFUL. IN THOSE**

**JURISDICTIONS WHERE THE SECURITIES, BLUE SKY OR OTHER LAWS REQUIRE THE TENDER OFFER TO BE MADE BY A LICENSED BROKER OR DEALER, THE TENDER OFFER WILL BE DEEMED TO BE MADE ON BEHALF OF THE COMPANY BY THE DEALER MANAGER OR ONE OR MORE REGISTERED BROKERS OR DEALERS LICENSED UNDER THE LAWS OF SUCH JURISDICTION.**

**THIS OFFER TO PURCHASE DOES NOT CONSTITUTE AN OFFER TO PURCHASE IN CHILE OR TO ANY RESIDENT OF CHILE, EXCEPT AS PERMITTED BY APPLICABLE CHILEAN LAW.**

Neither the delivery of this Offer to Purchase nor any purchase of Notes by the Company will, under any circumstances, create any implication that the information contained in this Offer to Purchase is current as of any time subsequent to the date of such information.

From time to time after completion of the Tender Offer, the Company and/or its affiliates may purchase additional Notes in the open market, in privately negotiated transactions, through tender offers, exchange offers or otherwise, or the Company may redeem Notes, pursuant to their terms. Any future purchases, exchanges or redemptions may be on the same terms or on terms that are more or less favorable to Holders of Notes than the terms of the Tender Offer. Any future purchases, exchanges or redemptions by the Company and/or its affiliates will depend on various factors existing at that time. There can be no assurance as to which, if any, of these alternatives (or combinations thereof) the Company and/or its affiliates may choose to pursue in the future.

In this Offer to Purchase, the Company has used the convention of referring to all Notes that have been validly tendered and not validly withdrawn as having been “validly tendered.”

**No dealer, salesperson or other person has been authorized to give any information or to make any representation not contained in this Offer to Purchase and, if given or made, such information or representation may not be relied upon as having been authorized by the Company or its affiliates, the Dealer Manager or its affiliates, the Tender and Information Agent or the trustee with respect to the Notes (the “Trustee”).**

#### **AVAILABLE INFORMATION**

The Company is a Delaware limited liability company and the majority indirect shareholder of AES Andes S.A. (“AES Andes”), a *sociedad anónima cerrada*, or a closed stock corporation, organized under the laws of Chile. The Company’s principal executive offices are located at Unit 3 Radford Way, Billericay, Essex, CM12 0DX, United Kingdom. AES Andes’ principal executive offices are located at Los Conquistadores 1730, Piso 10, Providencia, Santiago, Chile, postal code 7520282, and our telephone number at that address is (+56-2) 3333-8300. AES Andes’ website is [www.aesandes.com](http://www.aesandes.com).

AES Andes is an issuer in Chile of securities registered with the *Comisión para el Mercado Financiero*, the Financial Market Commission, or “CMF.” On April 17, 2024, AES Andes ceased to be a publicly traded stock corporation and its shares were deregistered from the Securities Registry and delisted from the *Bolsa de Comercio de Santiago—Bolsa de Valores*, or the Santiago Stock Exchange and the *Bolsa Electrónica de Chile—Bolsa de Valores*, or Electronic Stock Exchange, which we jointly refer to as the “Chilean Stock Exchanges.” AES Andes has issued bonds that trade on the Chilean Stock Exchanges. Accordingly, AES Andes is currently required to disclose information to the market by, *inter alia*, filing quarterly and annual reports in Spanish and issuing *hechos esenciales o relevantes* (notices of essential or material events) to the CMF, and provide copies of such reports and notices to the Chilean Stock Exchanges where our local bonds are traded. All such reports are available at [www.svs.cl](http://www.svs.cl) and [www.aesandes.com](http://www.aesandes.com).

These reports and notices and any information contained in, or accessible through, such websites are not incorporated by reference in, and do not constitute a part of, this Offer to Purchase.

## ENFORCEMENT OF FOREIGN JUDGMENTS

The Company is a holding company without material assets or liabilities other than its indirect ownership of AES Andes, a *sociedad anónima cerrada*, or a closed stock corporation, organized under the laws of the Republic of Chile (“Chile”). The Company’s management is focused on monitoring its investment in AES Andes.

Six of AES Andes’ seven directors reside in the United States. Seven of AES Andes’ eight executive officers reside in Chile. In addition, all or a substantial portion of AES Andes’ assets and the assets of its directors and officers are located outside the United States. As a result, except as explained below, it may not be possible for investors to effect service of process within the United States upon such persons, or to enforce against them or us in U.S. courts judgments predicated upon the civil liability provisions of the federal securities laws of the United States or otherwise obtained in U.S. courts.

We have been advised by Claro & Cía. (“Claro”), our special Chilean counsel, that no treaty exists between the United States and Chile for the reciprocal enforcement of foreign judgments. Chilean courts, however, would enforce final judgments rendered by U.S. courts by virtue of the legal principles of reciprocity and comity, subject to review in Chile of any such U.S. judgment in order to ascertain whether certain basic principles of due process and public policy have been respected, without reviewing the merits of the subject matter of the case. If a U.S. court grants a final judgment, enforceability of this judgment in Chile will be subject to obtaining the relevant exequatur decision from the Supreme Court of Chile (i.e., recognition and enforcement of the foreign judgment) according to Chilean civil procedure law in force at that time, and satisfying certain legal requirements. Currently, the most important of these requirements are:

- the existence of reciprocity, absent which the foreign judgment may not be enforced in Chile;
- the absence of any conflict between the foreign judgment and Chilean laws (excluding for this purpose the laws of civil procedure) and public policy;
- the absence of a conflicting judgment by a Chilean court relating to the same parties and arising from the same facts and circumstances;
- the Chilean court’s determination that the U.S. courts had jurisdiction and that the judgment does not conflict with Chilean jurisdiction, that process was appropriately served on the defendant and that the defendant was afforded a real opportunity to appear before the court and defend his or her case. Note that, under Chilean law, the service of process by means of mailing copies to us will not be deemed effective to cause a proper service of process and, consequently, any judgment rendered in a legal proceeding in which process was served by means of mailing copies to us may then be effectively contested by us in Chile; and
- the absence of any further means for appeal or review of the judgment in the jurisdiction where judgment was rendered.

In general, the enforceability in Chile of final judgments of U.S. courts does not require retrial in Chile but a review of certain relevant legal considerations (i.e., principles of due process and public policy). However, there is doubt:

- as to the enforceability in original actions in Chilean courts of liabilities predicated solely on the U.S. federal securities laws; and
- as to the enforceability in Chilean courts of judgments of U.S. courts obtained in actions predicated solely upon the civil liability provisions of the U.S. federal securities laws.

In addition, foreign judgments cannot affect properties located in Chile, which, as a matter of Chilean law, are subject exclusively to Chilean law and to the jurisdiction of Chilean courts. However, once the exequatur has been obtained, noteholders will be entitled to request from a local court the enforcement of the foreign judgment on the assets and properties located in Chile.

## CAUTIONARY STATEMENT ABOUT FORWARD-LOOKING STATEMENTS

This Offer to Purchase may contain forward-looking statements, within the meaning of the U.S. Private Securities Litigation Reform Act of 1995. Although we believe that in making any such statements our expectations are based on reasonable assumptions, any such statement may be influenced by factors that could cause actual outcomes and results to be materially different from those projected. When used in this offering memorandum, the words “anticipates,” “believes,” “expects,” “intends” and similar expressions, as they relate to us or our management, are intended to identify such forward-looking statements. You can also identify forward-looking statements by discussions of business goals, strategy, plans and intentions, but not all forward-looking statements include these words. These forward-looking statements are subject to numerous risks and uncertainties. There are important factors that could cause actual results to differ materially from those in forward-looking statements, certain of which are beyond our control. These factors, risks and uncertainties include, among other things:

- political, economic, regulatory and demographic developments in Chile, Colombia, Argentina and other countries where we do business or may do business in the future;
- changes in AES Andes’ regulatory environment, including the costs of complying with electricity, utility and environmental regulations;
- the nature and extent of future competition in AES Andes’ principal markets;
- factors which may increase the cost or delay the construction or commencement of operations of AES Andes’ new facilities;
- the uncertainties of current, pending and threatened litigation;
- trends affecting the financial condition or results of operations of AES Andes;
- inflation and exchange rate instability and government measures to control inflation and exchange rates;
- our and AES Andes’ ability to implement capital investment programs, including the ability to arrange financing where required, and to complete contemplated refinancings;
- changes in the prices and availability of coal, gas and other fuels (including AES Andes’ ability to have fuel transported to its facilities) and the success of AES Andes’ risk management practices, such as its ability to hedge its exposure to such market price risk, and AES Andes’ ability to meet credit support requirements for fuel and power supply contracts;
- AES Andes’ dividend policy;
- AES Andes’ ability to manage our operation and maintenance costs;
- AES Andes’ ability to collect accounts receivables from its customers;
- the different reporting requirements and protections we and AES Andes have, compared with similar companies based in the U.S.;
- AES Andes’ relationship with its employees and their unions, as well as any labor disputes derived therefrom;
- AES Andes’ ability to enter into long-term contracts, which limit volatility in its results of operations and cash flows, such as power purchase agreements, fuel supply, and other agreements and to manage counterparty credit risk in these agreements;
- variations in weather and hydrological conditions in the areas in which AES Andes operates;



- the impact of any unavailability of AES Andes' power generation units;
- AES Andes' ability to keep up with advances in technology;
- the potential effects of threatened or actual acts of terrorism and war;
- disruptions caused by earthquakes, tsunamis, floods or other natural disasters;
- our and AES Andes' ownership by The AES Corporation;
- the expropriation or nationalization of AES Andes' businesses or assets, whether with or without adequate compensation;
- changes in tax or labor laws;
- AES Andes' ability to maintain adequate insurance;
- a cross-acceleration or cross-default under our or AES Andes' debt financing arrangements;
- the performance (financial and otherwise) of Alto Maipo following the consummation of the Chapter 11 restructuring process;
- the availability of interconnection and transmission facilities owned and operated by unrelated third parties;
- the effect that the encouragement of NCRE's by the relevant regulators in each of the countries in which AES Andes operates may have on traditional sources of energy;
- the transitional mechanism for stabilizing electricity prices created pursuant to Chilean Laws Nos. 21,185 of 2019 and 21,472 of 2022;
- conflicts with indigenous people in Chile and/or Colombia;
- any downgrading of Chile's debt credit rating by an international credit rating agency or of our or AES Andes' credit ratings;
- loss of market share or changes in the pricing environments in the industry in which AES Andes operates; and
- the potential impacts of health-related crises, including any pandemic or epidemic, and measures taken in response to any such crisis, on AES Andes' resources, net profit and liquidity due to current and future disruptions in operations as well as the macroeconomic instability caused by any such crisis.

There may be other risks and uncertainties that may cause actual results to differ materially from those in forward-looking statements. We cannot assure you that any of the events anticipated by the forward-looking statements will transpire or occur, or if any of them do, what impact they will have on our results of operations or financial condition. We do not intend, and undertake no obligation, to publicly revise any forward-looking statements that have been made to reflect the occurrence of events after the date hereof. Accordingly, readers are cautioned not to place undue reliance on the forward-looking statements.

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## SUMMARY

*The following summary highlights selected information from this Offer to Purchase and is provided solely for the convenience of Holders of the Notes. This summary is not intended to be complete and is qualified in its entirety by reference to, and should be read in conjunction with, the information appearing elsewhere in this Offer to Purchase. Each undefined capitalized term used in this Summary has the meaning set forth elsewhere in this Offer to Purchase. Holders are urged to read this Offer to Purchase in its entirety.*

The Company .....	Mercury Chile Holdco LLC, a limited liability company existing under the laws of the State of Delaware.
The Notes .....	6.500% Senior Secured Guaranteed Notes due 2027.
CUSIP and ISIN Numbers .....	CUSIP: 58937CAA7 (144A) / U5900CAA8 (Reg S).  ISIN: US58937CAA71 (144A) / USU5900CAA81 (Reg S).
The Tender Offer.....	The Company is offering to purchase for cash, upon the terms and subject to the conditions set forth in this Offer to Purchase and for the purchase price set forth on the cover of this Offer to Purchase, any and all of the Notes.
Purpose of the Tender Offer .....	The purpose of the Tender Offer is to reduce the Company's U.S. dollar-denominated debt.
Tender Offer Consideration.....	Holders who validly tender Notes and whose Notes are accepted for purchase will receive the Tender Offer Consideration. In addition, each Holder will receive Accrued Interest on such U.S.\$1,000 principal amount of Notes validly tendered and accepted for purchase from the last interest payment date to, but not including, the Settlement Date.
Other Purchases of Notes .....	The Company and/or its affiliates may from time to time, after completion of the Tender Offer, purchase additional Notes in the open market, in privately negotiated transactions, through tender offers, exchange offers or otherwise or the Company may redeem the Notes pursuant to their terms. Any future purchases, exchanges or redemptions may be on the same terms or on terms that are more or less favorable to Holders of Notes than the terms of the Tender Offer. Any future purchases, exchanges or redemptions by the Company and/or its affiliates will depend on various factors existing at that time. There can be no assurance as to which, if any, of these alternatives (or combinations thereof) the Company and/or its affiliates may choose to pursue in the future.
Commencement Date .....	At or prior to 10:00 a.m., New York City time, May 30, 2024.
Withdrawal Deadline.....	The earlier of (i) the Expiration Date, and (ii) if the Tender Offer is extended, the 10th business day after the commencement of the Tender Offer. Securities may also be validly withdrawn if, for any reason, the Tender Offer has not been consummated within 60 business days after commencement.
Expiration Date .....	5:00 p.m., New York City time, June 5, 2024, unless extended or earlier terminated by the Company.

Guaranteed Delivery Date .....	5:00 p.m., New York City time, on the second business day after the Expiration Date, expected to be 5:00 p.m., New York City time, on June 7, 2024, unless extended by the Company.
Settlement Date .....	Expected to be the third business day after the Expiration Date. The expected Settlement Date is June 10, 2024, unless extended by the Company.
Settlement of Accepted Notes .....	<p>Subject to the terms of, and upon satisfaction or waiver by the Company of the conditions to, the Tender Offer, the Company will (i) accept for purchase Notes any or all of the Notes validly tendered at or prior to the Expiration Date (and not validly withdrawn) and (ii) promptly pay the Tender Offer Consideration for all Notes accepted for purchase by the Company. Payment of the Tender Offer Consideration, will be made with respect to Notes accepted for purchase on the Settlement Date, together with Accrued Interest.</p> <p>Any Notes that are tendered and accepted in the Tender Offer will be retired and cancelled.</p>
Conditions to the Tender Offer .....	<p>The Company's obligation to accept for purchase, and to pay for, Notes validly tendered in the Tender Offer is subject to the General Conditions. See "The Terms of the Tender Offer—Conditions to the Tender Offer." The Tender Offer is not contingent upon the tender of any minimum principal amount of Notes.</p> <p>Subject to applicable law, the Company expressly reserves the right, in the Company's discretion, to terminate or withdraw the Tender Offer at any time and from time to time. If the Tender Offer is terminated at any time with respect to the Notes, the Notes tendered and not previously accepted and purchased will be promptly returned to the tendering Holders.</p>
How to Tender Notes .....	<p>If you desire to tender Notes for which you are the beneficial owner that are held through a Nominee, you should contact such Nominee promptly and instruct him, her or it, as the registered Holder of such Notes, to tender such Notes on your behalf. To properly tender Notes (other than through the Guaranteed Delivery Procedures), the Tender Agent must receive, prior to the Expiration Date:</p> <ul style="list-style-type: none"> <li>• A timely confirmation of book-entry transfer of such Notes according to the procedure for book-entry transfer described in this Offer to Purchase; and</li> <li>• An Agent's Message through DTC's ATOP.</li> </ul> <p>In lieu of the above, there are Guaranteed Delivery Procedures provided for the Tender Offer set forth under "The Terms of the Tender Offer—Procedures for Tendering Notes—Tender of Notes Through Guaranteed Delivery Procedures" for Holders who wish to tender using such mechanism instead.</p> <p>See "The Terms of the Tender Offer—Procedures for Tendering Notes." For further information, call the Tender Agent at its telephone number set forth on the back cover of this Offer to Purchase or consult your Nominee for assistance.</p>

Withdrawal of Tenders .....	<p>Tendered Notes may be withdrawn at any time prior to the earlier of (i) the Expiration Date, and (ii) if the Tender Offer is extended, the 10th business day after the commencement of the Tender Offer, by following the procedures described in this Offer to Purchase and the Notice of Guaranteed Delivery. Securities may also be validly withdrawn by following the procedures described in this Offer to Purchase and the Notice of Guaranteed Delivery if, for any reason, the Tender Offer has not been consummated within 60 business days after commencement of the Tender Offer. For the withdrawal of a tendered Note to be valid, such withdrawal must comply with the procedures set forth in “The Terms of the Tender Offer—Withdrawal of Tenders.” The Company reserves the right, subject to applicable law, to extend the Withdrawal Deadline or Expiration Date to a later date and time as announced by the Company. In the event that the Tender Offer is terminated or otherwise not completed, the Tender Offer Consideration will not be paid or become payable to Holders of the Notes, without regard to whether such Holders have validly tendered their Notes (in which case, such tendered Notes will be promptly returned to Holders).</p> <p>To validly withdraw Notes, Holders must deliver a properly transmitted “Request Message” through ATOP, with the required information (as set forth below under “The Terms of the Tender Offer—Withdrawal of Tenders”) prior to the Withdrawal Deadline. Notes validly withdrawn prior to the Withdrawal Deadline may be tendered and delivered again prior to the Expiration Date in accordance with the procedures set forth in this Offer to Purchase.</p>
Minimum Denominations .....	<p>The Notes may be tendered and accepted for payment only in principal amounts equal to minimum denominations of U.S.\$200,000 and integral multiples of U.S.\$1,000 in excess thereof. Holders who do not tender all of their Notes must ensure that they retain a principal amount of Notes amounting to at least the minimum denomination equal to U.S.\$200,000.</p>
Tax Considerations.....	<p>Each Holder and beneficial owner should consult its tax advisor about the tax consequences of the Tender Offer as they apply to such Holder or beneficial owner’s individual circumstances. See “Taxation.”</p>
Untendered or Unpurchased Notes.....	<p>The Company will return any tendered Notes that it does not accept for purchase to their tendering Holder without expense. Notes not tendered and Notes otherwise not purchased pursuant to the Tender Offer will remain outstanding. This may adversely affect the liquidity of and, consequently, the market price for the Notes that remain outstanding after consummation of the Tender Offer. See “Certain Significant Consequences to Holders.”</p>
Consequences of Failing to Tender ....	<p>Your rights and the Company’s obligations under the Notes that remain outstanding after the consummation of the Tender Offer will not change as a result of the Tender Offer. Although the Notes not purchased in the Tender Offer will remain outstanding following consummation of the Tender Offer, the purchase of the Notes may result in a smaller trading market for the remaining outstanding principal amount of the Notes, which may cause the market for the Notes to be less liquid and more sporadic, and market prices for the Notes may fluctuate significantly depending on the volume of trading of the Notes. See “Certain Significant Consequences to Holders—Treatment of Notes Not</p>

Purchased Pursuant to the Tender Offer” and “Certain Significant Consequences to Holders—Limited Trading Market.”

Dealer Manager ..... Citigroup Global Markets Inc. is serving as Dealer Manager in connection with the Tender Offer (the “*Dealer Manager*”). The Dealer Manager’s contact information appears on the back cover of this Offer to Purchase.

Tender and Information Agent ..... Global Bondholder Services Corporation is serving as Tender and Information Agent in connection with the Tender Offer. Requests for additional copies of this Offer to Purchase should be directed to the Information Agent. Its contact information appears on the back cover page of this Offer to Purchase.

Brokerage Commissions ..... No brokerage commissions are payable by Holders to the Company, the Dealer Manager or the Tender and Information Agent. If your Notes are held through a broker or other Nominee who tenders the Notes on your behalf, such Nominee may charge you a commission for doing so. You should consult with your Nominee to determine whether any charges will apply. See “The Terms of the Tender Offer—Payment for Notes.”

## THE COMPANY

The Company is a Delaware limited liability company and the majority indirect shareholder of AES Andes. The Company's principal executive offices are located at Unit 3 Radford Way, Billerica, Essex, CM12 0DX, United Kingdom. AES Andes is a *sociedad anónima cerrada*, or a closed stock corporation, organized under the laws of Chile. It is one of the largest electricity generation companies in Chile. Its principal executive offices are located at Los Conquistadores 1730, Piso 10, Providencia, Santiago, Chile, postal code 7520282, and its telephone number at that address is (+56-2) 3333-8300. Its website is [www.aesandes.com](http://www.aesandes.com).

**Information on AES Andes' website is not incorporated by reference into this Offer to Purchase.**

## PURPOSE OF THE TENDER OFFER

The purpose of the Tender Offer is to reduce the Company's U.S. dollar-denominated debt.

The Tender Offer is subject to certain conditions. See "The Terms of the Tender Offer—Conditions to the Tender Offer." The Tender Offer is not conditioned on the tender of a minimum amount of Notes.

None of the Company, the Dealer Manager, the Tender and Information Agent, the Trustee or any of their respective affiliates is making any recommendation as to whether Holders should tender any Notes in response to the Tender Offer. Holders must make their own decision as to whether to participate in the Tender Offer, and, if so, the principal amount of Notes to tender.

## OTHER PURCHASES OF SECURITIES

From time to time after completion of the Tender Offer, the Company and/or its affiliates may purchase additional Notes in the open market, in privately negotiated transactions, through tender offers, exchange offers or otherwise or the Company may redeem Notes, pursuant to their terms. Any future purchases, exchanges or redemptions may be on the same terms or on terms that are more or less favorable to Holders of Notes than the terms of the Tender Offer. Any future purchases, exchanges or redemptions by the Company and/or its affiliates will depend on various factors existing at that time. There can be no assurance as to which, if any, of these alternatives (or combinations thereof) the Company and/or its affiliates may choose to pursue in the future.

## SOURCES AND AMOUNTS OF FUNDS

The Company is offering to purchase for cash, upon the terms and subject to the conditions set forth in this Offer to Purchase any and all of the outstanding Notes. See "The Terms of the Tender Offer—Conditions to the Tender Offer." The Company intends to fund the Tender Offer with cash on hand.

**This Offer to Purchase does not constitute an offer to sell any securities or the solicitation of an offer to buy any securities (other than the Notes). Any offering of securities will only be made by a separate offering document.**

## THE TERMS OF THE TENDER OFFER

### General

The following table sets forth certain terms of the Tender Offer:

Title of Notes	CUSIP and ISIN Numbers	Aggregate Principal Amount Outstanding <sup>(1)</sup>	Tender Offer Consideration <sup>(2)</sup>
6.500% Senior Secured Guaranteed Notes due 2027	CUSIP: 58937CAA7 (144A) / U5900CAA8 (Reg S) ISIN: US58937CAA71 (144A) / USU5900CAA81 (Reg S)	U.S.\$318,278,000	U.S.\$980.00

(1) Aggregate principal amount outstanding as of May 30, 2024.

(2) Dollars per U.S.\$1,000 principal amount of Notes. Does not include Accrued Interest, which will also be payable as provided herein.

Upon the terms and subject to the conditions described in this Offer to Purchase, the Company hereby offers to purchase for cash any and all of its outstanding Notes for the purchase price set forth on the front cover of this Offer to Purchase.

The Company's obligation to accept for payment and to pay for any of the Notes in the Tender Offer is subject to the satisfaction or waiver of the conditions to the Tender Offer. See "Conditions to the Tender Offer." The Tender Offer is not contingent upon the tender of any minimum principal amount of Notes.

Unless the context indicates otherwise, all references to a valid tender of Notes in this Offer to Purchase shall mean that such Notes have either (i) been validly tendered, at or prior to the Expiration Date and such tender has not been validly withdrawn at or prior to the Expiration Date or (ii) a Notice of Guaranteed Delivery in respect of such Notes has been validly delivered at or prior to the Expiration Date and not validly withdrawn and such Notes have been tendered at or prior to the Guaranteed Delivery Date (as defined herein).

Subject to the terms and conditions of the Tender Offer, the consideration for each U.S.\$1,000 principal amount of Notes validly tendered (and not validly withdrawn) and accepted for purchase pursuant to the Tender Offer will be the tender offer consideration set forth in the table above (the "*Tender Offer Consideration*"). No tenders will be valid if submitted after the Expiration Date.

In addition to the Tender Offer Consideration, all Holders of Notes accepted for purchase pursuant to the Tender Offer will, on the Settlement Date (as defined herein), also receive accrued and unpaid interest, if any, on those Notes from the last interest payment date with respect to those Notes to, but not including, the Settlement Date ("*Accrued Interest*"). The Company will gross up the amounts due in respect of Accrued Interest pursuant to the same methodology specified in the Indenture.

The Tender Offer commenced on the date of this Offer to Purchase and will expire on the Expiration Date, unless extended or earlier terminated by the Company. No tenders will be valid if submitted after the Expiration Date. If a Nominee holds your Notes, such Nominee may have an earlier deadline for accepting the offer. You should promptly contact such Nominee that holds your Notes to determine its deadline. The Tender Offer is open to all registered Holders of the Notes to whom it is legal to make such offer.

The Company reserves the right, but is under no obligation, subject to the satisfaction or waiver of the conditions to the Tender Offer, to accept for purchase any or all of the Notes validly tendered (and not validly withdrawn) at any point following the Expiration Date (the date on which such Notes are purchased, the "*Settlement Date*"). The Settlement Date with respect to the Tender Offer will be determined at the Company's option and is currently expected to occur on June 10, 2024, the third business day following the Expiration Date, subject to all conditions to the Tender Offer having been either satisfied or waived by the Company. Any Notes that are tendered and accepted in the Tender Offer will be retired and cancelled.

**Notwithstanding any other provision of the Tender Offer, the Company's obligation to accept for purchase, and to pay for, any Notes validly tendered pursuant to the Tender Offer, is conditioned upon satisfaction of the General Conditions (as defined herein). The General Conditions to the Tender Offer are for the sole benefit of the Company and may be asserted by the Company, regardless of the circumstances giving**



rise to any such condition (including any action or inaction by the Company). The Company reserves the right, in its sole discretion, to waive any and all conditions of the Tender Offer, at or prior to the Expiration Date. The Tender Offer is not subject to a minimum principal amount of Notes being tendered. See “—Conditions to the Tender Offer.”

Withdrawal rights with respect to the Notes will terminate on the Withdrawal Deadline, unless extended pursuant to applicable law. Accordingly, following the Withdrawal Deadline, any Notes validly tendered (whether before, on or after the Withdrawal Deadline) may no longer be validly withdrawn. For the withdrawal of a tendered Note to be valid, such withdrawal must comply with the procedures set forth in “The Terms of the Tender Offer—Withdrawal of Tenders.”

The Company reserves the right, subject to applicable law, to (a) extend the Withdrawal Deadline or Expiration Date to a later date and time as announced by the Company; (b) waive or modify in whole or in part any and all conditions to the Tender Offer; (c) delay the acceptance for purchase of any Notes or delay the purchase of any Notes; or (d) otherwise modify or terminate the Tender Offer. In the event that the Tender Offer is terminated or otherwise not completed, the Tender Offer Consideration will not be paid or become payable to Holders of the Notes, without regard to whether such Holders have validly tendered their Notes (in which case, such tendered Notes will be promptly returned to Holders). The Company will publicly announce any extension, amendment or termination in the manner described under “—Announcements.” There can be no assurance that the Company will exercise its right to extend, terminate or amend the Tender Offer. See “—Expiration Date; Extension; Termination and Amendment.”

Pursuant to Rule 14e-1 under the Exchange Act, if the Company increases or decreases any portion of the Tender Offer Consideration for the Notes, then it will extend any the Tender Offer, to the extent required by applicable law, and, if required by applicable law, extend the Withdrawal Deadline.

See “Taxation” for a discussion of certain tax matters that should be considered in evaluating the Tender Offer.

**NONE OF THE COMPANY, THE DEALER MANAGER, THE TENDER AND INFORMATION AGENT, THE TRUSTEE OR THEIR RESPECTIVE AFFILIATES IS MAKING ANY RECOMMENDATION AS TO WHETHER HOLDERS SHOULD TENDER ANY NOTES IN RESPONSE TO THE TENDER OFFER. HOLDERS MUST MAKE THEIR OWN DECISION AS TO WHETHER TO PARTICIPATE IN THE TENDER OFFER, AND, IF SO, THE PRINCIPAL AMOUNT OF NOTES TO TENDER.**

**If you do not tender your Notes or if you tender Notes that are not accepted for purchase, they will remain outstanding. If the Company consummates the Tender Offer, the trading market for the Notes may be significantly more limited. For a discussion of this and other risks, see “Certain Significant Consequences to Holders.”**

#### **Payment for Notes**

Payment for Notes purchased pursuant to the Tender Offer will be made by the deposit of the Tender Offer Consideration, plus Accrued Interest, in immediately available funds by the Company on the Settlement Date with the Tender Agent, which will act as agent for tendering Holders for the purpose of receiving payment from the Company and transmitting such payment to tendering Holders or directly with DTC. For purposes of the Tender Offer, the Company will be deemed to have accepted for purchase validly tendered Notes that have not been validly withdrawn if, as and when, the Company gives oral (confirmed in writing) or written notice thereof to the Tender Agent.

The Company expressly reserves the right, in the Company’s sole discretion and subject to Rule 14e-1(c) under the Exchange Act of 1934, to delay acceptance for purchase of, or payment for, Notes if any of the conditions to the Tender Offer shall not have been satisfied or waived, or in order to comply, in whole or in part, with any applicable law. See “—Conditions to the Tender Offer.” In all cases, payment by the Tender Agent to Holders or beneficial owners of the Tender Offer Consideration and Accrued Interest, for Notes purchased pursuant to the Tender Offer will be made only after timely receipt by the Tender Agent of (i) timely confirmation of a book-entry transfer of such Notes into the Tender Agent’s account at DTC pursuant to the procedures set forth under “—Procedures for Tendering Notes,” and (ii) a properly transmitted Agent’s Message.

If any tendered Notes are not purchased pursuant to the Tender Offer for any reason, such Notes not purchased will be returned promptly, without expense, to the tendering Holder (or, in the case of Notes tendered by book-entry transfer, such Notes will be promptly credited to the account maintained at DTC from which Notes were delivered) after the expiration or termination of the Tender Offer.

Holders whose Notes are accepted for purchase pursuant to the Tender Offer will be entitled to receive the Tender Offer Consideration for the Notes, plus Accrued Interest. Under no circumstances will any additional interest

be payable because of any delay in the transmission of funds to the Holders of purchased Notes or otherwise. Any Notes that are tendered and accepted in the Tender Offer will be retired and cancelled.

Tendering Holders of Notes purchased in the Tender Offer will not be obligated to pay brokerage commissions to the Company, the Dealer Manager or the Tender and Information Agent. The Company will pay or cause to be paid all transfer taxes with respect to the purchase of any Notes in the Tender Offer. If your Notes are held through a broker or other Nominee who tenders the Notes on your behalf, such broker or Nominee may charge you a commission for doing so. You should consult with your broker or Nominee to determine whether any charges will apply.

The Notes may be tendered and accepted for payment only in principal amounts equal to minimum denominations of U.S.\$200,000 and integral multiples of U.S.\$1,000 in excess thereof. Holders who do not tender all of their Notes must ensure that they retain a principal amount of the Notes amounting to at least the minimum denomination equal to U.S.\$200,000.

## **Conditions to the Tender Offer**

### *General Conditions*

Notwithstanding any other provision of this Offer to Purchase, and in addition to (and not in limitation of) the Company's right to extend and amend the Tender Offer at any time, in the Company's sole discretion, the Company will not be required to accept for purchase, or to pay for, Notes validly tendered pursuant to the Tender Offer and may terminate, extend or amend the Tender Offer, and may (subject to Rule 14e-1(c) under the Exchange Act, which requires that an offeror pay the consideration offered or return the securities deposited by or on behalf of the Holders thereof promptly after the termination or withdrawal of a tender offer) postpone the acceptance for purchase of, and payment for, Notes so tendered, before such time as any Notes have been accepted for purchase pursuant to the Tender Offer, the following events and conditions (the "*General Conditions*") exist or shall occur and remain in effect or shall be determined by the Company to exist or have occurred and have not been satisfied.

All the "General Conditions" shall be deemed to be satisfied unless any of the following conditions shall occur after the date of this Offer to Purchase and prior to the Expiration Date:

- (1) there shall have been instituted, threatened or be pending any action, proceeding or investigation (whether formal or informal) (or there shall have been any material adverse development with respect to any action or proceeding currently instituted, threatened or pending) before or by any court, governmental, regulatory or administrative agency or instrumentality, or by any other person, in connection with the Tender Offer that, in the reasonable judgment of the Company, either (a) is, or is likely to be, materially adverse to the business, operations, properties, condition (financial or otherwise), assets, liabilities or prospects of the Company, or (b) would or might prohibit, prevent, restrict or delay consummation of the Tender Offer;
- (2) an order, statute, rule, regulation, executive order, stay, decree, judgment or injunction shall have been proposed, enacted, entered, issued, promulgated, enforced or deemed applicable by any court or governmental, regulatory or administrative agency or instrumentality that, in the reasonable judgment of the Company, either (a) would or might prohibit, prevent, restrict or delay consummation of the Tender Offer or (b) is, or is likely to be, materially adverse to the business, operations, properties, condition (financial or otherwise), assets, liabilities or prospects of the Company;
- (3) there shall have occurred or be likely to occur any event affecting the business or financial affairs of the Company that, in the reasonable judgment of the Company, would or might prohibit, prevent, restrict or delay consummation of the Tender Offer;
- (4) the Trustee shall have objected in any respect to or taken action that could, in the reasonable judgment of the Company, adversely affect the consummation of the Tender Offer or shall have taken any action that challenges the validity or effectiveness of the procedures used by the Company in the making of the Tender Offer or the acceptance of, or payment for, the Notes; or
- (5) there has occurred (a) any general suspension of, or limitation on prices for, trading in securities or financial markets of either the United States, the Republic of Chile or other major securities or financial markets, (b) any significant adverse change in the price of the Notes in the United States, the Republic of Chile or other major securities or financial markets, (c) a material impairment in the

trading market for debt securities, (d) a declaration of a banking moratorium or any suspension of payments with respect to banks in the United States, the Republic of Chile or other major financial markets, (e) any limitation (whether or not mandatory) by any government or governmental, administrative or regulatory authority or agency, domestic or foreign, or other event that, in the reasonable judgment of the Company, might affect the extension of credit by banks or other lending institutions, (f) a commencement of a war, armed hostilities, terrorist acts or other national or international calamity directly or indirectly involving the United States, the Republic of Chile or (g) in the case of any of the foregoing existing on the date hereof, in the reasonable judgment of the Company, a material acceleration or worsening thereof.

The foregoing conditions are for the Company's sole benefit and may be asserted by the Company regardless of the circumstances, including any action or inaction by the Company, giving rise to such condition or may be waived by the Company in whole or in part at any time and from time to time in its sole discretion. If any condition to the Tender Offer is not satisfied or waived by the Company prior to the Settlement Date, the Company reserves the right, but will not be obligated, subject to applicable law:

- to terminate the Tender Offer and return any tendered Notes;
- to waive all unsatisfied conditions and accept for purchase Notes that are validly tendered prior to the Expiration Date (or the Settlement Date);
- to extend the Tender Offer and retain the Notes that have been tendered during the period for which the Tender Offer is extended; or
- to otherwise amend the Tender Offer.

The failure by the Company at any time to exercise any of the foregoing rights will not be deemed a waiver of any other right and each right will be deemed an ongoing right that may be asserted at any time and from time to time. The Tender Offer is not conditioned on any minimum principal amount of Notes being tendered.

### **Procedures for Tendering Notes**

The method of delivery of Notes and all other required documents, including delivery through DTC and any acceptance of an Agent's Message transmitted through ATOP, is at the election and risk of the person tendering Notes and transmitting an Agent's Message and delivery will be deemed made only when actually received by the Tender Agent. **DELIVERY OF DOCUMENTS TO DTC DOES NOT CONSTITUTE DELIVERY TO THE TENDER AGENT.** Holders desiring to tender Notes must allow sufficient time for completion of the ATOP procedures during normal business hours of DTC. In no event shall the Holder send any documents to the Dealer Manager or to the Company.

#### ***Tender of Notes Held Through a Nominee***

To effectively tender Notes that are held of record by a Nominee, the beneficial owner thereof must instruct such Nominee to tender the Notes on the beneficial owner's behalf. Any beneficial owner of Notes held of record by DTC or its Nominee, through authority granted by DTC, may direct the DTC participant through which such beneficial owner's Notes are held in DTC to tender Notes on such beneficial owner's behalf.

#### ***Tender of Notes Held Through DTC***

To effectively tender Notes that are held through DTC, DTC participants should electronically transmit their acceptance through ATOP (and thereby tender the Notes), for which the transaction will be eligible, followed by a properly transmitted Agent's Message delivered to the Tender Agent. Upon receipt of such Holder's acceptance through ATOP, DTC will edit and verify the acceptance and send an Agent's Message to the Tender Agent for its acceptance. Delivery of tendered Notes must be made to the Tender Agent pursuant to the book-entry delivery procedures set forth below.

Except as provided below, unless the Notes being tendered are deposited with the Tender Agent prior to the Expiration Date, accompanied by a properly transmitted Agent's Message, as applicable, the Company may, at its

option, treat such tender as defective for purposes of the right to receive the Tender Offer Consideration. Payment for tendered Notes will be made only against deposit of the tendered Notes and delivery of all other required documents.

In order to validly tender Notes prior to the Expiration Date, a DTC participant using ATOP must also properly transmit an Agent's Message. Pursuant to authority granted by DTC, any DTC participant that has Notes credited to its DTC account at any time (and thereby held of record by DTC's nominee) may directly instruct the Tender Agent to tender Notes prior to the Expiration Date, as though it were the registered Holder thereof by so transmitting an Agent's Message.

### ***Book-Entry Delivery and Tender of Notes Through ATOP***

Promptly after commencement of the Tender Offer, the Tender Agent will establish one or more new accounts (or utilize existing accounts) with respect to the Notes at DTC for purposes of the Tender Offer (to the extent such arrangements have not been made previously by the Tender Agent). Any financial institution that is a participant in DTC may make book-entry delivery of the Notes credited to such participant's DTC account by causing DTC to transfer such Notes into the Tender Agent's account at DTC in accordance with DTC's procedures for such transfer. Although delivery of Notes may be effected through book-entry transfer into the Tender Agent's account at DTC, an Agent's Message must, in any case, be transmitted to and received by the Tender Agent prior to the Expiration Date, as applicable. Delivery of documents to DTC does not constitute delivery to the Tender Agent. The confirmation of a book-entry transfer into the Tender Agent's account at DTC as described above is referred to herein as a "*Book-Entry Confirmation*."

The term "*Agent's Message*" means a message transmitted by DTC to, and received by, the Tender Agent and forming a part of the Book-Entry Confirmation, which states that DTC has received an express acknowledgment from the tendering participant stating (i) the aggregate principal amount of Notes to be tendered by such participant and (ii) that such participant has received copies of the Offer to Purchase and agrees to be bound by the terms and conditions of the Tender Offer as described herein.

Any Holder who holds Notes through Clearstream or Euroclear must also comply with the applicable procedures of Clearstream or Euroclear, as applicable, in connection with a tender of Notes. Both Clearstream and Euroclear are indirect participants in the DTC system.

**THE NOTES AND AGENT'S MESSAGE SHOULD BE SENT ONLY TO THE TENDER AGENT, AND NOT TO THE COMPANY, THE DEALER MANAGER, OR TO DTC (OR ANY OTHER BOOK-ENTRY TRANSFER FACILITY). UNLESS YOU PROPERLY FOLLOW THE GUARANTEED DELIVERY PROCEDURES DESCRIBED BELOW, TENDERS NOT RECEIVED BY THE TENDER AGENT PRIOR TO THE EXPIRATION DATE WILL BE DISREGARDED AND OF NO EFFECT.**

### ***Tender of Notes Through Guaranteed Delivery Procedures***

If a Holder desires to tender Notes pursuant to the Offer to Purchase and (1) such Holder's Note certificates are not immediately available or cannot be delivered to the Tender Agent by the Expiration Date, (2) such Holder cannot comply with the procedure for book-entry transfer by the Expiration Date, or (3) such Holder cannot deliver the other required documents to the Tender Agent by the Expiration Date, such Holder may effect a tender of Notes pursuant to a guaranteed delivery if all of the following are complied with:

- such tender is made by or through an "eligible guarantor institution" as that term is defined in Rule 17Ad-15 under the Exchange Act (generally a member of a registered national securities exchange, or a commercial bank or trust company having an office in the United States) (an "*Eligible Institution*");
- prior to the Expiration Date, the Tender Agent has received from such Eligible Institution, at the address of the Tender Agent set forth on the back cover of this Offer to Purchase, a properly completed and duly executed Notice of Guaranteed Delivery (delivered by facsimile transmission, mail or hand) in substantially the form provided by us setting forth the name and address of the DTC participant tendering Notes of behalf of the Holder(s) and the principal amount of Notes being tendered, and representing that the Holder(s) own such Notes, and the tender is being made thereby and guaranteeing that, no later than the close of business on the second business day after the Expiration Date, a properly transmitted

Agent's Message, together with confirmation of book-entry transfer thereof pursuant to the procedures set forth under the caption "—Procedures for Tendering Notes—Book-Entry Delivery and Tender of Notes Through ATOP," and any other documents required, will be deposited by such Eligible Institution with the Tender Agent; and

- a properly transmitted Agent's Message, together with confirmation of book-entry transfer of such Notes pursuant to the procedures set forth under the caption "—Procedures for Tendering Notes—Book-Entry Delivery and Tender of Notes Through ATOP," and all other required documents are received by the Tender Agent no later than the close of business on the second business day after the Expiration Date.

If DTC's ATOP procedures are used, the DTC participant need not complete and physically deliver the Notice of Guaranteed Delivery Form to the Tender Agent. However, Holders will be bound by the terms of the Tender Offer. Guaranteed deliveries may be submitted only in authorized denominations. Interest will cease to accrue on the Settlement Date for all Notes accepted in the Offer to Purchase, including those tendered through the guaranteed delivery procedures.

### ***General***

Only Holders are authorized to tender their Notes. The procedures by which Notes may be tendered by beneficial owners that are not Holders will depend upon the manner in which the Notes are held. Therefore, to effectively tender Notes that are held through a Nominee, the beneficial owner thereof must instruct such Nominee to tender the Notes on the beneficial owner's behalf according to the procedures described above. DTC has authorized DTC participants that hold Notes on behalf of beneficial owners of Notes through DTC to tender their Notes as if they were the Holders.

The tender of Notes by a Holder (and the acceptance of such tender by the Company) pursuant to the procedures set forth above will constitute a binding agreement between such Holder and the Company in accordance with the terms and subject to the conditions set forth herein.

Notwithstanding any other provision hereof, payment of the Tender Offer Consideration, for Notes validly tendered and accepted for payment pursuant to the Tender Offer will, in all cases, be made only after timely receipt by the Tender Agent of a Book-Entry Confirmation (as defined above) of the transfer of such Notes into the Tender Agent's account at DTC, as described above, and a properly transmitted Agent's Message or by following the Guaranteed Delivery Procedures described above.

**The Company, in its sole discretion, will determine all questions as to the form of documents and validity, eligibility (including time of receipt), acceptance for payment and withdrawal of validly tendered Notes, and such determinations will be final and binding. The Company reserves the absolute right to reject any and all tenders of Notes that the Company determines are not in proper form or where the acceptance for purchase of, or payment for, such Notes may, in the opinion of the Company's counsel, be unlawful. The Company also reserves the absolute right in its sole discretion to waive any of the conditions of the Tender Offer or any defect or irregularity in the tender of Notes of any particular Holder, whether or not similar conditions, defects or irregularities are waived in the case of other Holders. The Company's interpretation of the terms and conditions of the Tender Offer will be final and binding.**

Any defect or irregularity in connection with tenders of Notes must be cured within such time as the Company determines, unless waived by the Company. Tenders of Notes shall not be deemed to have been made until all defects or irregularities have been waived or cured. None of the Company, the Dealer Manager, the Tender and Information Agent, the Trustee or any other person will be under any duty to give notification of any defects or irregularities in tenders, Notices of Guaranteed Delivery or notices of withdrawal or will incur any liability for failure to give any such notification. If the Company waives its right to reject a defective tender of Notes, the Holder will be entitled to the Tender Offer Consideration, plus Accrued Interest.

### ***Withholding Tax***

Under applicable tax laws, the withholding agent may be required to withhold tax on payments made to certain Holders pursuant to the Tender Offer. If the Company is required to withhold taxes from payments of Accrued Interest, the Company will gross up the amounts due in respect of Accrued Interest pursuant to the same methodology as specified in the indenture. Holders and beneficial owners may be required to provide an IRS Form W-8 (in the case of

non-U.S. investors) or IRS Form W-9 (in the case of U.S. investors) to the applicable withholding agent to receive the Tender Offer Consideration, and the Accrued Interest, without U.S. backup withholding. No additional amounts will be paid with respect to any such backup withholding.

#### ***No Alternative, Conditional or Contingent Tenders***

No alternative, conditional or contingent tenders of Notes will be accepted pursuant to the Tender Offer. All questions as to the form of all documents and acceptance of all tenders of Notes will be determined by the Company, in its sole discretion, the determination of which shall be conclusive and binding.

#### ***Representations, Warranties and Undertakings***

By tendering Notes pursuant to this Offer to Purchase (including by accepting a Tender Offer through ATOP), the Holder is deemed to represent, warrant and undertake to the Company, the Tender Agent and the Dealer Manager that:

- (1) the tendering Holder has received the Offer to Purchase;
- (2) the Notes are, at the time of acceptance, and will continue to be, until the payment on the Settlement Date, or the termination or withdrawal of the Tender Offer, or, in the case of Notes in respect of which the tender has been withdrawn, the date on which such tender is validly withdrawn, held by it;
- (3) the tendering Holder acknowledges that all authority conferred or agreed to be conferred pursuant to these representations, warranties and undertakings and every obligation of the tendering Holder shall be binding upon the successors, assigns, heirs, executors, administrators, trustee in bankruptcy and legal representatives of the tendering Holder and shall not be affected by, and shall survive, the death or incapacity of the tendering Holder;
- (4) the tendering Holder has full power and authority to tender, sell, assign and transfer the tendered Notes;
- (5) the Notes will, on the Settlement Date be transferred by such tendering Holder to the Company in accordance with the terms of the Tender Offer, and the Company will acquire good, marketable and unencumbered title thereto, with full title guarantee free and clear of all liens, restrictions, charges and encumbrances, not subject to any adverse claim or right, and together with all rights attached thereto; and
- (6) the tendering Holder will, upon request, execute and deliver any documents deemed by the Tender Agent or the Company to be necessary or desirable to complete the sale, assignment and transfer of the Notes tendered.

By tendering Notes as set forth herein, and subject to and effective upon acceptance for purchase of, and payment for, the Notes tendered therewith, a tendering Holder (i) irrevocably sells, assigns and transfers to, or upon the order of, the Company all right, title and interest in and to all the Notes tendered thereby and accepted for purchase pursuant to the terms hereof, (ii) waives any and all other rights with respect to the Notes (including, without limitation, the tendering Holder's waiver of any existing or past defaults and their consequences in respect of the Notes and the indenture under which the Notes were issued), (iii) releases and discharges the Company from any and all claims such Holder may have now, or may have in the future, arising out of, or related to, such Notes, including, without limitation, any claims that such Holder is entitled to receive additional principal or interest payments with respect to such Notes or to participate in any repurchase, redemption or defeasance of the Notes, and (iv) irrevocably constitutes and appoints the Tender Agent as the true and lawful agent and attorney-in-fact of such Holder (with full knowledge that the Tender Agent also acts as the agent of the Company) with respect to any such tendered Notes, with full power of substitution and resubstitution (such power of attorney being deemed to be an irrevocable power coupled with an interest) to (a) transfer ownership of such Notes on the account books maintained by DTC, together with all accompanying evidences of transfer and authenticity, to, or upon the order of, the Company, (b) present such Notes for transfer on the relevant security register, and (c) receive all benefits or otherwise exercise all rights of beneficial ownership of such Notes (except that the Tender Agent will have no rights to, or control over, funds from the Company, except as agent for the

tendering Holders, for the purchase price, plus any Accrued Interest, of Notes tendered pursuant to the Tender Offer, as determined pursuant to the terms of this Offer to Purchase, for any tendered Notes that are purchased by the Company).

**By tendering Notes pursuant to the Tender Offer, the Holder will be deemed to have agreed that the delivery and surrender of the Notes is not effective, and the risk of loss of the Notes does not pass to the Tender Agent, until receipt by the Tender Agent of a properly transmitted Agent's Message together with all accompanying evidences of authority and any other required documents in form satisfactory to the Company.**

### ***Compliance with "Short Tendering" Rule***

It is a violation of Rule 14e-4 under the Exchange Act for a person, directly or indirectly, to tender Notes in a partial tender offer for their own account unless the person so tendering (a) has a net long position equal to or greater than the aggregate principal amount of the Notes being tendered and (b) will cause such Notes to be delivered in accordance with the terms of the Tender Offer. Rule 14e-4 provides a similar restriction applicable to the tender or guarantee of a tender on behalf of another person.

A tender of Notes in the Tender Offer under any of the procedures described above will constitute a binding agreement between the tendering Holder and the Company with respect to such Notes upon the terms and subject to the conditions of the Tender Offer, including the tendering Holder's acceptance of the terms and conditions of the Tender Offer, as well as the tendering Holder's representation and warranty that (a) such Holder has a net long position in the Notes being tendered pursuant to the Tender Offer within the meaning of Rule 14e-4 under the Exchange Act, and (b) the tender of such Notes complies with Rule 14e-4.

### **Withdrawal of Tenders**

Withdrawal rights with respect to the Notes will terminate on the Withdrawal Deadline, unless extended pursuant to applicable law. Accordingly, following the Withdrawal Deadline, any Notes validly tendered (whether before or after the Withdrawal Deadline) may no longer be validly withdrawn, provided that Notes may also be validly withdrawn if, for any reason, the Tender Offer has not been consummated within 60 business days after commencement.

Subject to applicable law, the Company may extend or otherwise amend the Expiration Date. Pursuant to Rule 14e-1 under the Exchange Act, if the Company increases or decreases any portion of the Tender Offer Consideration, then it will extend the Tender Offer, to the extent required by applicable law, and, if required by applicable law, extend the Withdrawal Deadline.

For a withdrawal of Notes to be valid, the Tender Agent must timely receive a written or facsimile notice of withdrawal at one of its addresses set forth on the last page of this document, or a properly transmitted "Request Message" through ATOP must be received by the Tender Agent, in each case before the Withdrawal Deadline. The withdrawal notice must:

- specify the name of the person that tendered the Notes to be withdrawn and, if different, the record holder of such Notes (or, in the case of Notes tendered by book entry transfer, the name of the DTC participant for whose account such Notes were tendered and such participant's account number at DTC to be credited with the withdrawn Notes);
- contain a description(s) of the Notes to be withdrawn, including the CUSIP number(s) and the aggregate principal amount represented by such Notes to be withdrawn; and
- be signed by such participant in the same manner as the participant's name is listed on the Agent's Message.

If the Notes to be withdrawn have been delivered or otherwise identified to the Tender Agent, a signed notice of withdrawal is effective immediately upon written or facsimile notice of withdrawal, even if physical release is not yet effected by the Tender Agent. Any Notes validly withdrawn will be deemed to be not validly tendered for purposes of the Tender Offer.

Holders may not rescind their withdrawal of tendered Notes and any Notes validly withdrawn will thereafter be deemed not validly tendered, for purposes of the Tender Offer. Validly withdrawn Notes may, however, be tendered again by following one of the procedures described above under "—Procedures for Tendering Notes" at any time prior

to the Expiration Date.

Holders may accomplish valid withdrawals of Notes only in accordance with the foregoing procedures.

All questions as to the validity (including time of receipt) of notices of withdrawal will be determined by the Company in its sole discretion, which determination shall be final and binding. None of the Company, the Dealer Manager, the Tender and Information Agent, the Trustee or any other person will be under any duty to give notification of any defects or irregularities in any notice of withdrawal or will incur any liability for failure to give any such notification.

## **Acceptance of Notes for Purchase; Accrual of Interest**

### ***Acceptance of Notes for Purchase***

The Company will be deemed to have accepted for purchase pursuant to the Tender Offer and thereby have purchased validly tendered Notes pursuant to the Tender Offer if, as and when it gives oral or written notice to the Tender Agent of the Company's acceptance of such Notes for purchase pursuant to the Tender Offer. The Company will announce acceptance for purchase of the Notes. In all cases, payment for Notes purchased pursuant to the Tender Offer will be made by deposit of cash relating to the Tender Offer.

Payment for Notes purchased pursuant to the Tender Offer will be made by the deposit of the Tender Offer Consideration, plus Accrued Interest, in immediately available funds by the Company on the Settlement Date with the Tender Agent, which will act as agent for tendering Holders for the purpose of receiving payment from the Company and transmitting such payment to tendering Holders or directly with DTC. Any Notes that are tendered and accepted in the Tender Offer will be retired and cancelled.

On the Settlement Date, the Company will settle all Notes accepted for purchase and the Company expects such date to be three business days following the Expiration Date. Any Notes that are accepted for purchase by the Company will be cancelled.

The Company expressly reserves the right, in the Company's sole discretion and subject to Rule 14e-1(c) under the Exchange Act, to delay acceptance for purchase of, or payment for, Notes in order to comply, in whole or in part, with any applicable law. See "—Conditions to the Tender Offer." In all cases, payment by the Tender Agent to Holders of consideration for Notes accepted for purchase pursuant to the Tender Offer will be made only after timely receipt by the Tender Agent of:

- confirmation of a book-entry transfer of such Notes into the Tender Agent's account at DTC pursuant to the procedures set forth under "—Procedures for Tendering Notes"; and
- a duly completed Agent's Message through the facilities of DTC.

If the Tender Offer is terminated or withdrawn, or the Notes subject to the Tender Offer are not accepted for purchase, no consideration will be paid or payable to Holders of those Notes. If any tendered Notes are not purchased pursuant to the Tender Offer for any reason, Notes tendered by book-entry transfer will be credited to the account maintained at DTC from which those Notes were delivered promptly following the Expiration Date or termination of the Tender Offer.

The Company reserves the right to transfer or assign, in whole at any time or in part from time to time, to one or more of its affiliates, the right to purchase Notes validly tendered (and not validly withdrawn) pursuant to the Tender Offer but any such transfer or assignment will not relieve the Company of its obligations under the Tender Offer or prejudice the rights of tendering Holders to receive consideration pursuant to the Tender Offer.

Holders will not be obligated to pay brokerage fees or commissions or transfer taxes with respect to the Company's purchase of the Notes pursuant to the Tender Offer. If you hold Notes through a broker or bank, you should consult that institution as to whether it charges any service fees. The Company will pay certain fees and expenses of the Dealer Manager, the Trustee, the Tender Agent and the Information Agent, and their respective counsel, in connection with the Tender Offer. See "Dealer Manager, Tender and Information Agent."

### ***Accrual of Interest***

Holders who tender Notes that are accepted for purchase pursuant to the Tender Offer will receive Accrued Interest.



**Under no circumstances will any additional interest be payable because of any delay subsequent to the Settlement Date in the transmission of funds to the Holders of purchased Notes or otherwise.**

### **Expiration Date; Extension; Termination and Amendment**

The Tender Offer will expire on the Expiration Date, as defined on the cover page of this Offer to Purchase, unless amended, extended or terminated by the Company.

The Company reserves the right, at any time or from time to time, to extend the Expiration Date. In addition, subject to applicable law, the Company expressly reserves the right, in the Company's sole discretion, to terminate or withdraw the Tender Offer at any time and from time to time. If the Tender Offer is terminated at any time, the Notes tendered and not previously accepted and purchased will be promptly returned to the tendering Holders. There can be no assurance that the Company will exercise the Company's right to extend, terminate or amend the Tender Offer. Irrespective of any amendment to the Tender Offer, all Notes previously tendered pursuant to the Tender Offer and not accepted for purchase will remain subject to the Tender Offer and may be accepted thereafter for purchase by the Company, except when such acceptance is prohibited by law.

The Company will publicly announce any extension, amendment or termination in the manner described under "—Announcements." There can be no assurance that the Company will exercise its right to extend, terminate or amend the Tender Offer.

If the Company makes a material change in the terms of the Tender Offer or the information concerning the Tender Offer, the Company will disseminate additional materials and extend the Tender Offer to the extent required by law. In the event of a termination of the Tender Offer, the Tender Offer Consideration will not be paid or become payable on such Notes.

Please note that the terms of any extension of, or amendment of the terms of, the Tender Offer may vary from the terms of the original Tender Offer depending on such factors as prevailing interest rates and the principal amount of Notes previously tendered or otherwise purchased.

### **Additional Terms of the Tender Offer**

- All communications, payments, notices, certificates or other documents to be delivered to or by a Holder will be delivered by or sent to or by it at the Holder's own risk.
- By submitting a valid electronic acceptance instruction, a Holder will be deemed to have given the representations, warranties and undertakings of the Holder set forth above in "—Procedures for Tendering Notes—Representations, Warranties and Undertakings."
- All acceptances of tendered Notes by the Company shall be deemed to be made on the terms set out in this Offer to Purchase (and shall be deemed to be given in writing even if submitted electronically).
- The Company may in the Company's sole discretion elect to treat as valid a tender instruction in respect of which the relevant Holder does not fully comply with all the requirements of these terms.
- Unless waived by the Company, any irregularities in connection with tenders of such Notes must be cured within such time as the Company shall determine. None of the Company, the Dealer Manager, the Tender and Information Agent, the Trustee or any other person shall be under any duty to give notification of any defects or irregularities in such tenders of Notes, nor will any of such entities incur any liability for failure to give such notifications. Tenders of Notes may be deemed not to have been made until such irregularities have been cured or waived.

- None of the Company, the Dealer Manager, the Tender Agent or the Trustee shall accept any responsibility for failure of delivery of a notice, communication or electronic acceptance instruction.
- Any rights or claims which a Holder may have against the Company in respect of any tendered Notes or the Tender Offer shall be extinguished or otherwise released upon the payment to such Holder of the consideration for the tendered Notes and any accrued interest, as determined pursuant to the terms of the Tender Offer, for such Notes.
- Without limiting the manner in which the Company may choose to make any public announcement, the Company shall have no obligation to publish, advertise or otherwise communicate any such public announcement other than by issuing a press release or giving notice to the Tender Agent and the Dealer Manager.
- There are no appraisal or similar statutory rights available to the Holders in connection with the Tender Offer.
- The contract constituted by the Company's acceptance for purchase in accordance with the terms of this Offer to Purchase of all Notes validly tendered (or defectively tendered, if such defect has been waived by the Company) shall be governed by, and construed in accordance with, the law of the State of New York.

#### **Announcements**

If the Company is required to make an announcement relating to an extension of the Withdrawal Deadline, or the Expiration Date for the Tender Offer, an amendment or termination of the Tender Offer, acceptance of the Notes for purchase, or otherwise, the Company will do so as promptly as practicable and, in the case of an extension or acceptance, no later than 9:00 a.m., New York City time, on the business day after the previously scheduled Withdrawal Deadline, or Expiration Date, as applicable. Unless otherwise specified in this Offer to Purchase, the Company may choose to issue an announcement of this type in any reasonable manner, but it will have no obligation to do so other than by issuing a press release or a notice sent via DTC.

## **CERTAIN SIGNIFICANT CONSEQUENCES TO HOLDERS**

### **Position of the Company and Other Parties Concerning the Tender Offer**

None of the Company, the Dealer Manager, the Trustee or the Tender and Information Agent makes any recommendation to any Holder whether to tender or refrain from tendering any or all of such Holder's Notes, and none of them has authorized any person to make any such recommendations. Holders are urged to evaluate carefully all information in the Offer to Purchase, consult their own investment and tax advisors and make their own decisions whether to tender Notes, and, if so, the principal amount of Notes to tender.

### **Limited Trading Market**

To the extent that not all of the outstanding Notes are purchased pursuant to the Tender Offer, the trading market for Notes that remain outstanding will become more limited. Because a debt security with a smaller float may command a lower price than would a comparable debt security with a greater float, the market price for Notes not purchased pursuant to the Tender Offer may be affected adversely to the extent the consummation of such Tender Offer reduces the float of such Notes. The reduced float may also tend to make the trading price of such Notes more volatile. The Company cannot assure Holders that if the Tender Offer is consummated that any trading market will exist for Notes that remain outstanding. The extent of the trading market for such Notes following consummation of the Tender Offer would depend upon the number of Holders that remain at such time, the interest in maintaining markets in the Notes on the part of securities firms and other factors.

### **Withdrawal Rights**

Tendered Notes may be withdrawn at any time prior to the earlier of (i) the Expiration Date, and (ii) if the Tender Offer is extended, the 10th business day after the commencement of the Tender Offer, by following the procedures described in this Offer to Purchase and the Notice of Guaranteed Delivery. Securities may also be validly withdrawn by following the procedures described in this Offer to Purchase and the Notice of Guaranteed Delivery if, for any reason, the Tender Offer has not been consummated within 60 business days after commencement.

### **Effect of the Tender Offer on Holders of Notes Tendered and Accepted in the Tender Offer**

If your Notes are validly tendered and accepted for purchase, you will be giving up all of your rights as a Holder of those Notes, including, without limitation, your right to future interest or cash distributions and principal payments with respect to such Notes. Any Notes that are tendered and accepted in the Tender Offer will be retired and cancelled.

### **Treatment of Notes Not Purchased Pursuant to the Tender Offer**

Notes not tendered, or tendered but not accepted for purchase, in the Tender Offer will remain outstanding. The terms and conditions governing the Notes, including the covenants and other protective provisions contained in the Indenture, will remain unchanged.

### **Conditions in respect of the Tender Offer**

The consummation of the Tender Offer is subject to the satisfaction or waiver of several conditions. See "The Terms of the Tender Offer—Conditions to the Tender Offer." In addition, subject to applicable law, the Company may terminate the Tender Offer at any time prior to the Expiration Date. There can be no assurance that such conditions will be met, that the Company will not terminate the Tender Offer, or that, in the event that the Tender Offer is not consummated, the market value and liquidity of the Notes will not be materially adversely affected.

### **Certain Tax Considerations**

See "Taxation" for a discussion of certain tax matters that should be considered in evaluating the Tender Offer.

**Other Purchases of Notes**

Following consummation or termination of the Tender Offer, the Company and/or its affiliates reserve the right to acquire the Notes from time to time otherwise than pursuant to the Tender Offer through open market purchases, privately negotiated transactions, one or more additional tender or exchange offers or otherwise, on terms that may or may not be equal to the Tender Offer Consideration. The Company also reserves the right to exercise any of its rights (including redemption rights) under the Indenture under which the Notes were issued. Any future purchases, exchanges or redemptions may be on the same terms or on terms that are more or less favorable to Holders of Notes than the terms of the Tender Offer. Any future purchases, exchanges or redemptions by the Company and/or its affiliates will depend on various factors existing at that time. There can be no assurance as to which, if any, of these alternatives (or combinations thereof) the Company and/or its affiliates may choose to pursue in the future.

## TAXATION

*The following discussion is a summary of certain U.S. federal income tax consequences and UK tax considerations relating to the disposition of the Notes pursuant to the Tender Offer. This summary does not describe all of the tax considerations that may be relevant to a beneficial owner of Notes, particularly for beneficial owners that are subject to special tax rules. Each beneficial owner of Notes should consult its tax advisors about the tax consequences of a disposition of Notes pursuant to the Tender Offer, including the relevance to a beneficial owner's particular situation of the considerations discussed below, as well as of state, local and other tax laws. This summary is based upon tax laws of the United States and the United Kingdom as in effect on the date of this Offer to Purchase, which are subject to change, possibly with retroactive effect, and to differing interpretations. Each beneficial owner of Notes should consult its tax advisor with respect to U.S. federal, state, local, UK and other foreign tax consequences of the Tender Offer.*

### **Certain U.S. Federal Income Tax Consequences**

The following is a discussion of certain U.S. federal income tax consequences of the Tender Offer that apply to you if you are a "U.S. Holder" (as defined below). This discussion applies to you only if you hold the Notes as capital assets for U.S. federal income tax purposes (generally, property held for investment), and does not describe all of the tax consequences that may be relevant to you in light of your particular circumstances, including any special tax accounting rules under Section 451(b) of the Internal Revenue Code of 1986, as amended (the "Code"), alternative minimum tax or Medicare contribution tax consequences, and differing tax consequences that may apply if you are, for instance:

- a bank or other financial institution;
- an insurance company;
- a regulated investment company or a real estate investment trust;
- a dealer or trader in securities that uses a mark-to-market method of tax accounting;
- holding Notes as part of a "straddle," hedging transaction, conversion transaction or integrated transaction;
- a person whose functional currency is not the U.S. dollar;
- a tax-exempt entity, "individual retirement account" or "Roth IRA";
- a person holding Notes in connection with a trade or business conducted outside the United States;  
or
- a partnership or other entity treated as a partnership for U.S. federal income tax purposes or partners therein.

If you are a partnership (or any other entity treated as a partnership) for U.S. federal income tax purposes, the U.S. federal income tax treatment of your partners will generally depend on the status of the partners and your activities. If you are a partnership or a partner in a partnership that will dispose of Notes pursuant to the Tender Offer, you should consult your tax advisor as to the U.S. federal income tax consequences of the Tender Offer to you.

This summary is based on the Code, administrative pronouncements, judicial decisions and final, temporary and proposed Treasury regulations, all as of the date hereof, changes to any of which subsequent to the date of this Offer to Purchase may affect the tax consequences described herein. This summary does not address any state, local or non-U.S. tax consequences, U.S. federal estate or gift tax consequences or any consequences other than U.S. federal income taxes.

You are a U.S. Holder if, for U.S. federal income tax purposes, you are a beneficial owner of a Note and:

- a citizen or individual resident of the United States;
- a corporation (or other entity taxable as a corporation) created or organized in or under the laws of the United States, any state therein or the District of Columbia; or
- an estate or trust the income of which is subject to U.S. federal income taxation regardless of its source.

### ***Tendering U.S. Holders***

The following discussion applies to you only if you are a U.S. Holder that tenders your Notes pursuant to the Offer and your Notes are accepted for purchase by the Company.

### ***Sale of the Notes Pursuant to the Tender Offer***

If you sell a Note pursuant to the Tender Offer, you will recognize gain or loss in an amount equal to the difference between the amount you realize from the sale and your adjusted tax basis in the tendered Note. The amount realized generally will be the amount of cash paid to you pursuant to the Tender Offer with respect to the Notes (other than any Accrued Interest, which will be taxable as ordinary interest income to the extent not previously included in gross income). Your adjusted tax basis in the Note generally will be the original cost to you of the Note, increased by any market discount (as described below) included in your gross income and decreased (but not below zero) by any amortizable bond premium that you have previously amortized. Amortizable bond premium generally is the excess of your tax basis in a Note immediately after its acquisition by you over the Note's stated principal amount.

Subject to the discussion below regarding the market discount rules, your gain or loss generally will be capital gain or loss, and will be long-term capital gain or loss if your holding period for the tendered Note is more than one year. Long-term capital gains of certain non-corporate taxpayers (including individuals) are eligible for reduced rates of U.S. federal income taxation. Any gain (other than gain attributable to Accrued Interest or market discount) or loss recognized on the disposition of the Notes pursuant to the Tender Offer generally will be U.S.-source income or loss for purposes of computing your foreign tax credit limitation. The deductibility of capital losses is subject to limitations. Accrued Interest and market discount with respect to the Notes generally will be foreign-source income for purposes of computing your foreign tax credit limitation. The rules governing foreign tax credits are complex, and you should consult your tax advisor regarding the creditability or deductibility of any non-U.S. tax on disposition gains in your particular circumstances, including any applicable limitations.

### ***Market Discount***

If you acquired a Note at a market discount (unless the amount of such market discount was less than a specified *de minimis* amount), any gain recognized upon the sale of the Note will be treated as ordinary income to the extent of the market discount that accrued during the period you held the Note, unless you had elected to include such market discount in income as it accrued. The amount of your market discount on your Note generally equals the excess of the principal amount of the Note over your initial tax basis in the Note. Market discount accrues on a ratable basis, unless you elected to accrue market discount, if any, using a constant yield method. Any amount treated as ordinary income pursuant to the market discount rules should be treated as foreign-source income for purposes of computing your foreign tax credit limitation.

### ***Information Reporting and Backup Withholding***

Information returns may be required to be filed with the IRS in connection with the payment of the Tender Offer Consideration, and Accrued Interest unless you are an exempt recipient and, if required, establish this fact. You may also be subject to backup withholding on these payments in respect of your Notes unless you provide your taxpayer identification number and otherwise comply with applicable requirements of the backup withholding rules or you provide proof of an applicable exemption. You should consult your tax advisor as to your qualification for exemption from backup withholding and the procedure for obtaining an exemption. Amounts withheld under the backup withholding rules are not additional taxes and generally may be refunded or credited against your U.S. federal income tax liability, provided the required information is timely furnished to the IRS.

### ***Non-Tendering U.S. Holders***

If your Notes are not purchased by the Company pursuant to the Offer, you will not recognize any gain or loss for U.S. federal income tax purposes and you will continue to have the same tax basis, holding period and accrued market discount (if any) with respect to such Notes.

### **Certain UK Tax Considerations**

The following is a non-exhaustive summary as at the date hereof of (i) the UK withholding taxation treatment in relation to payments of interest in respect of the Notes pursuant to the Tender Offer, (ii) the UK taxation treatment in respect of any payments on or in respect of the Notes pursuant to the Tender Offer for certain non-UK resident holders of Notes and (iii) the UK stamp duty and stamp duty reserve tax (“SDRT”) position with respect to the transfer of the Notes through the facilities of DTC, Euroclear and Clearstream pursuant to the Tender Offer. It is based on current law and the practice of His Majesty’s Revenue & Customs (“HMRC”), both of which may be subject to change, possibly with retrospective effect. The comments do not deal with any other UK or non-UK tax aspects of the acquisition, holding or disposal of the Notes. The comments relate only to the position of persons who are absolute beneficial owners of the Notes. Holders of Notes should be aware that the particular terms of the Notes may affect the tax treatment. The following is a general guide only and should be treated with appropriate caution. It is not intended as tax advice and it does not purport to describe all of the tax considerations (UK or otherwise) that might be relevant to a prospective holder of Notes. Holders of Notes who are in any doubt as to their tax position should consult their professional advisers. Holders of Notes who may be liable to taxation in the UK or jurisdictions other than the UK in respect of the disposal of the Notes are particularly advised to consult their professional advisers as to whether they are so liable (and if so under the laws of which jurisdictions), since the following comments relate only to certain UK tax aspects of the Notes. In particular, holders of Notes should be aware that they may be liable to taxation under the laws of the UK or other jurisdictions in relation to payments in respect of the Notes even if such payments may be made without withholding or deduction for or on account of taxation under the laws of the UK.

The Company conducts its affairs such that the central management and control of their business is carried on in the UK and accordingly is treated as resident in the UK for UK tax purposes.

### ***UK Withholding Tax on UK Source Interest***

Payments of Accrued Interest, or any other amount treated as interest, on the Notes may be made without deduction of or withholding on account of UK income tax on the basis that the Notes are and remain listed on a “recognised stock exchange” within the meaning of Section 1005 Income Tax Act 2007.

The Notes are considered to be “listed on a recognised stock exchange” for this purpose on the basis that they are admitted to trading on a stock exchange designated as a “recognised stock exchange” by an order made by the Commissioners for HMRC and are either (a) included in the UK official list (within the meaning of Part 6 of the Financial Services and Markets Act 2000) or (b) officially listed, in accordance with provisions corresponding to those generally applicable in European Economic Area states, in a country outside the UK in which there is a recognised stock exchange.

The International Stock Exchange is a recognised stock exchange for these purposes. Securities that are officially listed and admitted to trading on the Official List of The International Stock Exchange are regarded as “listed on a recognised stock exchange” for these purposes.

In all cases falling outside the exemption described above, interest on the Notes may fall to be paid under deduction of UK income tax at the basic rate (currently 20 per cent.) subject to such relief as may be available following a direction from HMRC pursuant to the provisions of any applicable double taxation treaty or to any other exemption which may apply.

### ***Disposal of Notes***

A holder of the Notes who (i) is not resident for tax purposes in the UK and (ii) does not carry on a business, trade, profession or vocation in the UK through a branch, agency or permanent establishment to which the Notes are attributable, should not generally be subject to UK tax in respect of any payments on or in respect of the Notes pursuant to the Tender Offer other than UK withholding on account of UK income tax (if any) as noted above.

### ***Stamp Duty and SDRT***

On the basis that the Company does not maintain any register of the Notes in the UK (and no register (or copy thereof or copy of part thereof) of the Notes is maintained in the UK on behalf of the Company), it is expected that no UK stamp duty or stamp duty reserve tax should, in practice, be payable by the holders on the transfer by book-entry of the Notes through the facilities of DTC, Euroclear or Clearstream pursuant to the Tender Offer.



## **DEALER MANAGER, TENDER AND INFORMATION AGENT**

The Company has retained Citigroup Global Markets Inc. to act as Dealer Manager and Global Bondholder Services Corporation to act as the Tender and Information Agent in connection with the Tender Offer. The Company has agreed to pay the Dealer Manager and the Tender and Information Agent customary fees for their services in connection with the Tender Offer. The Company has also agreed to reimburse the Dealer Manager and the Tender and Information Agent for certain of their out-of-pocket expenses and to indemnify them against certain liabilities, including liabilities under the federal securities laws. The Dealer Manager may also act as underwriter, initial purchaser, lender or other agent in connection with any debt offerings and/or bank financings the Company may pursue.

In the ordinary course of business, the Dealer Manager or its affiliates may at any time hold long or short positions and may trade for their own account or the accounts of customers, in the Company's debt or equity securities, including any of the Notes. To the extent that the Dealer Manager or its affiliates own or acquire Notes during the Tender Offer, they may tender such Notes pursuant to the terms of the Tender Offer. In the ordinary course of their business, the Dealer Manager and its affiliates have from time to time provided, and may in the future provide, certain commercial banking, investment banking and financial advisory services for the Company and its affiliates, for which they received, or will receive, customary fees and expenses.

None of the Dealer Manager, the Tender and Information Agent or the Trustee assumes any responsibility for the accuracy or completeness of the information concerning the Company, its affiliates or the Notes contained or referred to in this Offer to Purchase or for any failure by the Company to disclose events that may have occurred and may affect the significance or accuracy of such information.

**NONE OF THE COMPANY, THE DEALER MANAGER, THE TRUSTEE, THE TENDER AND INFORMATION AGENT OR ANY THEIR RESPECTIVE AFFILIATES IS MAKING ANY RECOMMENDATION AS TO WHETHER HOLDERS SHOULD TENDER ANY NOTES IN RESPONSE TO THE TENDER OFFER. HOLDERS MUST MAKE THEIR OWN DECISION AS TO WHETHER TO TENDER ANY OF THEIR NOTES AND, IF SO, THE PRINCIPAL AMOUNT OF NOTES TO TENDER.**

In connection with the Tender Offer, the Company's officers and regular employees (who will not be specifically compensated for such services) may solicit tenders by use of the mails, personally or by telephone. The Company will also pay brokerage houses and other custodians, nominees and fiduciaries the reasonable out-of-pocket expenses incurred by them in forwarding copies of this Offer to Purchase to the Holders and in handling or forwarding tenders of Notes by their customers.

## **MISCELLANEOUS**

The Company is not aware of any jurisdiction where the making of the Tender Offer is not in compliance with the laws of such jurisdiction. If the Company becomes aware of any jurisdiction where the making of the Tender Offer would not be in compliance with such laws, the Company will make a good faith effort to comply with any such laws or may seek to have such laws declared inapplicable to the Tender Offer. If, after such good faith effort, the Company cannot comply with any such applicable laws, the Tender Offer will not be made to the Holders of Notes residing in each such jurisdiction. In any jurisdiction in which the securities laws or blue sky laws require the Tender Offer to be made by a licensed broker or dealer, the Tender Offer will be deemed to be made on behalf of the Company by the Dealer Manager, or one or more registered brokers or dealers that are licensed under the laws of such jurisdiction.

***The Information Agent for the Tender Offer is:***

**Global Bondholder Services Corporation**

65 Broadway – Suite 404  
New York, New York 10006  
Attn: Corporate Actions  
Banks and Brokers call: (212) 430-3774  
Toll free: 855-654-2014

***The Tender Agent for the Tender Offer is:***

**Global Bondholder Services Corporation**

By facsimile:  
(212) 430-3775/3779  
Confirmation: (212) 430-3774

*By Mail:*  
65 Broadway – Suite 404  
New York, NY 10006

*By Overnight Courier:*  
65 Broadway – Suite 404  
New York, NY 10006

*By Hand:*  
65 Broadway – Suite 404  
New York, NY 10006

***The Dealer Manager for the Tender Offer is:***

**Citigroup Global Markets Inc.**  
388 Greenwich Street, 4th Floor  
New York, New York 10013  
Attn: Liability Management Group  
Collect: (212) 723-6106  
Toll-Free: (800) 558-3745  
Email: [ny.liabilitymanagement@citi.com](mailto:ny.liabilitymanagement@citi.com)