# **Scotia** Investments.

# **Inversiones Alsacia**

In December 2014, Inversiones Alsacia completed a restructuring of its debt under which US\$347.3 million of the old notes were exchanged for new 8% senior secured notes due 2018. In the context of continued operating losses, dire liquidity constraints and weak financial position (high interest payments relative to cash from operations) Alsacia, in 2016, defaulted on the 8% senior secured notes due 2018. The issuer has since been pursuing a restructuring of these notes. Accordingly, Alsacia has given notice of a proposal to amend and waive certain provisions of the Indenture of the 2018 Notes. The proposed supplemental indenture is attached for your information.

To schedule an appointment to review your portfolio, contact your Investment Advisor directly, call our Wealth Contact Centre at 888-429-5745 / 876-960-6699 or email us at <a href="mailto:investmentinfo@scotiabank.com">investmentinfo@scotiabank.com</a>.

#### NOTICE TO HOLDERS

**OF** 

# **INVERSIONES ALSACIA, S.A.**

# 8.00% SENIOR SECURED NOTES DUE 2018 CUSIP #s P5800BAB5 / 46132BAD1 ISIN #s USP5800BAB55 / US46132BAD10

Date: June 22, 2020

**IMPORTANT** INFORMATION NOTE: THIS NOTICE CONTAINS THAT MATERIALLY AFFECTS THE ECONOMIC INTERESTS OF THE BENEFICIAL OWNERS OF THE SUBJECT NOTES AND SHOULD BE CAREFULLY REVIEWED. IF APPLICABLE. ALL DEPOSITORIES. CUSTODIANS. AND INTERMEDIARIES RECEIVING THIS NOTICE ARE REQUESTED TO EXPEDITE RETRANSMITTAL TO SUCH BENEFICIAL OWNERS IN A TIMELY MANNER.

This Notice is being issued by The Bank of New York Mellon ("<u>BNYM</u>"), as indenture trustee (the "<u>Trustee</u>") pursuant to the indenture (as amended and supplemented) dated as of December 17, 2014, (the "<u>Indenture</u>"), among Inversiones Alsacia S.A., (the "<u>Issuer</u>"), Express de Santiago Uno S.A., Panamerican Investments Ltd. ("<u>Express</u>"), Inversiones Eco Uno S.A. and Camden Servicios SpA (the "<u>Guarantors</u>"), The Bank of New York Mellon as Paying Agent, Registrar, Transfer Agent, and U.S. Collateral Agent, and Banco Santander Chile ("<u>Santander</u>") as Chilean Collateral Agent. Capitalized terms not defined herein shall have the meaning ascribed to them in the Indenture or the Plan, as defined below.

Notice is hereby given that, pursuant to Section 10.02 of the Indenture, the Issuer, the Guarantors, BNYM and Santander have entered into the supplemental indenture attached as Exhibit A hereto (the "**First Supplemental Indenture**").

If any Holders have questions about this Notice, they may contact David M. Kerr, Vice President, The Bank of New York Mellon, at david.m.kerr@bnymellon.com.

The Bank of New York Mellon, as Trustee

Note: The CUSIP and ISIN numbers appearing herein has been included solely for the convenience of the holders of the Notes. The Bank of New York Mellon assumes no responsibility for the selection or use of such CUSIP number and makes no representation as to the correctness of the CUSIP number listed above or printed on the Bonds.

# Exhibit A

# First Supplemental Indenture

## **EXHIBIT A**

#### **NOTICE TO HOLDERS**

**OF** 

#### **INVERSIONES ALSACIA, S.A.**

# 8.00% SENIOR SECURED NOTES DUE 2018 CUSIP P5800BAB5 / USP5800BAB55 CUSIP 46132BAD1 / US46132BAD10

Date: June 17, 2020

This notice is issued by Inversiones Alsacia, S.A. (the "Issuer") pursuant to Sections 10.02(c) and 13.02 of the indenture, dated as of December 17, 2014 (the "Indenture") among Inversiones Alsacia, S.A. (the "Issuer"), Express de Santiago Uno, S.A., Inversiones Eco Uno, S.A., Panamerican Investments Ltd. and Camden Servicios SpA (collectively, the "Guarantors"), The Bank of New York Mellon, acting as Trustee, Principal Paying Agent, Transfer Agent and Registrar (the "Trustee"), Banco Santander Chile, acting as Chilean collateral trustee with respect to the collateral located in or governed by the laws of Chile (the "Chilean Collateral Trustee") and The Bank of New York Mellon, acting as collateral trustee for all other collateral (the "U.S. Collateral Trustee" and together with the Trustee and the Chilean Collateral Trustee, the "Secured Party Trustees"), pursuant to which the 8.00% Senior Secured Notes due 2018 were issued by the Issuer and guaranteed by the Guarantors (the "New Notes"). Capitalized terms used but not defined herein shall have the meanings given such terms in the Indenture.

Notice is hereby given that, pursuant to Section 10.02 of the Indenture, the Issuer, the Guarantors and certain Holders of the New Notes propose to amend and waive certain provisions of the Indenture as set forth in the proposed supplemental indenture attached as <u>Annex A</u> hereto (the "<u>First Supplemental Indenture</u>").

# ANNEX A

# **First Supplemental Indenture**

#### FIRST SUPPLEMENTAL INDENTURE

FIRST SUPPLEMENTAL INDENTURE (the "First Supplemental Indenture"), dated as of June 17, 2020, between Inversiones Alsacia, S.A. (the "Issuer"), Express de Santiago Uno, S.A., Inversiones Eco Uno, S.A., Panamerican Investments Ltd. and Camden Servicios SpA (collectively, the "Guarantors"), The Bank of New York Mellon, acting as Trustee, Principal Paying Agent, Transfer Agent and Registrar (the "Trustee"), Banco Santander Chile, acting as Chilean collateral trustee with respect to the collateral located in or governed by the laws of Chile (the "Chilean Collateral Trustee") and The Bank of New York Mellon, acting as collateral trustee for all other collateral (the "U.S. Collateral Trustee" and together with the Trustee and the Chilean Collateral Trustee, the "Secured Party Trustees").

#### WITNESSETH:

WHEREAS, on December 17, 2014, the parties hereto entered into an Indenture (the "Original Indenture") governing the issuance and terms of the 8.00% Senior Secured Notes due 2018 (the "New Notes") issued by the Issuer, and guaranteed by the Guarantors, on the same date;

WHEREAS, pursuant to Section 10.02 of the Original Indenture, the Issuer, the Guarantors and the Secured Party Trustees may make changes or additions to, or eliminations or waivers of, certain provisions of the Finance Agreements and modifications to the rights of the Holders with the written consent of the Controlling Party and, in the case of any changes or additions to, or eliminations or waivers of, Section 3.03(a) and (b) and Section 4.02 of the Original Indenture (and any definitions used in such provision), with the written consent of Holders that, in the aggregate, hold at least 60% of the aggregate outstanding principal amount of the New Notes;

WHEREAS, the Concessionaires and the Holders desire to amend the Original Indenture to permit the Concessionaires to consummate certain Bus Transactions (as defined below) and to confirm the appointment of a Monitor (as defined below) to oversee and approve such transactions;

**WHEREAS**, the Issuer, the Guarantors and the Holders desire to amend certain terms of the Original Indenture to permit the Issuer and the Guarantors to consummate the Terminal Sale (as defined below);

**WHEREAS**, the Issuer, the Guarantors and the Holders desire to amend certain terms of the Original Indenture to permit the Issuer and the Guarantors to lease, subcontract, sell, transfer or otherwise assign the Operation Conditions (as defined below) to a subsidiary to be formed by Eco Uno (the "NewCo");

WHEREAS, the Issuer, the Guarantors and the Holders desire to amend certain terms of the Original Indenture such that the NewCo may give a Special Guarantee (as defined below) that shall be released upon the sale, transfer or disposition of the NewCo to any Person;

**WHEREAS**, the Issuer, the Guarantors and the Holders desire to amend certain terms of the Original Indenture to reflect a commercial understanding of the distribution of certain amounts;

**WHEREAS**, as of the date hereof, the aggregate outstanding principal amount of New Notes issued and outstanding is \$346,348,462.48 (the "Aggregate Face Value");

WHEREAS, the Issuer obtained the consent of the Controlling Party and, with respect to the amendments to Section 3.03(a) and (b) and 4.02 of the Original Indenture, Holders that, as of the date hereof, in the aggregate, hold at least 93.05% of the Aggregate Face Value and is delivering

contemporaneously herewith to the Trustee (i) evidence of the written consent of such Holders, and (ii) the Officers' Certificate and Opinion of Counsel described in Section 10.05 of the Original Indenture; and

**WHEREAS**, all conditions necessary to authorize the execution and delivery of this First Supplemental Indenture and to make this First Supplemental Indenture valid and binding have been complied with or have been done or performed.

**NOW, THEREFORE,** for and in consideration of the premises and the mutual covenants contained herein and in the Original Indenture and for other good and valuable consideration, the receipt and sufficiency of which are herein acknowledged, the Issuer, the Guarantors and the Secured Party Trustees hereby agree, for the equal and ratable benefit of all Holders, as follows:

#### ARTICLE ONE

#### **DEFINITIONS**

Section 1.01. <u>Defined Terms</u>. All capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Original Indenture, as supplemented and amended hereby. All definitions in the Original Indenture shall be read in a manner consistent with the terms of this First Supplemental Indenture.

#### ARTICLE TWO

#### AMENDMENT TO INDENTURE

Section 2.01. Definitions.

- (a) The following definitions shall be added to Section 1.01 of the Original Indenture:
- "Amended and Restated Forbearance Agreement" means the Second Amended and Restated Forbearance Agreement, effective as of June 12, 2020 (the "Forbearance Date"), to the Forbearance Agreement, dated as of November 16, 2017 (as amended, supplemented or otherwise modified by that certain Forbearance Waiver Agreement, dated as of January 28, 2018, and by that certain Amended and Restated Forbearance Agreement, dated as of September 27, 2019) by and among the Issuer, the Guarantors and an *ad hoc* group of Holders.
- "Bus Disposal" means any disposition by the Concessionaires of an Obsolete Bus or any spare parts thereof not repurposed pursuant to a Bus Repurposing or sold pursuant to a Bus Transaction.
- "Bus Repurposing" means use by the Concessionaires of spare parts of Obsolete Buses to effect repairs on the buses that they intend to continue to operate.
- "Bus Request Notice" means any form delivered by the Issuer to the Monitor (as defined herein) in connection with any Bus Transaction not otherwise permitted by Section 4.04(d).

"Buses" means Operational Buses and Obsolete Buses.

"Bus Sale" means an Obsolete Bus Sale or an Operational Bus Sale, respectively.

"Bus Terminal Assets" means (i) all owned bus terminals used by the Concessionaires in connection with the Concessions, including any buildings, offices and fixtures therein and (ii) the Government Lease Agreements.

"Bus Transaction" means any Bus Disposal, Bus Repurposing or Bus Sale.

"<u>Consorcio</u>" means Compañía de Seguros de Vida Consorcio Nacional de Seguros S.A.

"Excess Cash Sweep Termination Date" means the first date on which the Monitor and the chief financial officer of the Issuer shall have delivered a certificate to the Bondholder Advisors (as defined herein) certifying that, in each of their respective judgments, the value of the assets of the Concessionaires (such value excluding after the Trigger Date (x) the NewCo and its assets and (y) to the extent held by a Concessionaire other than NewCo, the Operation Conditions) would, as of the date of such certification, reasonably be expected to result in gross proceeds of less than US\$1.0 million.

"Government Lease Agreements" means the five lease agreements entered into by the Concessionaires, as lessors, and the Republic of Chile (and certain subdivisions thereof), as lessees, for the use of the Concessionaires' five owned bus terminals.

"Net Terminal Sale Proceeds" means an amount in cash equal to the difference of (x) the Terminal Sale Proceeds *minus* (y) the sum of (i) the Trustee Indemnity Amount; *plus* (ii) documented out-of-pocket fees and expenses (including all legal, accounting and other professional fees and expenses) incurred by the Issuer and the Guarantors in connection with the Terminal Sale and with the negotiation and execution of the Amended and Restated Forbearance Agreement and the First Supplemental Indenture and the out-of-pocket fees and expenses (including, but not limited to, attorneys' fees and expenses) due and owing to the Secured Party Trustees in an aggregate amount not to exceed 760,000,000 Chilean pesos, *plus* (iii) the outstanding Debt owing by the Issuer and the Guarantors to BI in an aggregate amount not to exceed UF 219,562, *plus* (iv) payment of the remaining labor, severance and tax obligations and liabilities of the Sale Parties in an aggregate amount not to exceed 35,000,000,000 Chilean pesos (it being understood that the Issuer shall pay such amount by setting aside the Retained Amount in full until the Residual Retained Amount becomes available).

"NewCo Transfer" means (i) at any time, the sale, transfer or disposition of all of the Capital Stock of the NewCo or all or substantially all of the NewCo's assets, including for the avoidance of doubt the Operation Conditions, to any Person that is not an Affiliate of the Issuer or the Guarantors for consideration in an aggregate amount at least equal to the Fair Market Value of all of the Capital Stock of the NewCo or all or substantially all of the Newco's assets, as applicable, (such sale, transfer or disposition, the "FMV NewCo Transfer") or (ii) upon the occurrence of the Trigger Date, the sale, transfer or disposition of all of the Capital Stock of the NewCo or all or substantially all of the NewCo's assets, including for the avoidance of doubt the Operation Conditions, to any Person for no or nominal consideration, at the sole discretion of the Issuer or the Guarantors (such sale, transfer or disposition, the "Post-Trigger NewCo Transfer").

"NewCo Transfer Notice" means any form delivered by the Issuer to the Monitor in connection with any NewCo Transfer, setting forth (i) the name, address and phone number of the proposed transferee or transferees of the NewCo, (ii) the names of the individual or individuals who control such transferee or transferees and (iii) a reasonably detailed description of the terms and conditions of such proposed transfer, including a copy of the documents giving effect thereto.

"Obsolete Buses" means buses that the Concessionaires determine (on the basis of kilometers traveled, years in service and operating condition) are obsolete.

"Obsolete Bus Sale" means a direct or indirect sale of one or more Obsolete Buses and/or spare parts thereof not used pursuant to a Bus Repurposing.

"Operational Buses" means buses that are not Obsolete Buses.

"Operational Bus Sale" means a direct or indirect sale of one or more Operational Buses.

"Operation Conditions" means the *condiciones de operación* or any other document to be entered into by Express and MTT or any other Governmental Authority representing the government of the Republic of Chile; *provided*, that, for the avoidance of doubt, the Operation Conditions shall not be deemed a Concession Extension.

"Operation Conditions Transfer" means the lease, subcontract, sale, transfer or other assignment of the Operation Conditions to the NewCo by the Issuer and the Guarantors, including for no or nominal consideration. For the avoidance of doubt, following an Operation Conditions Transfer pursuant to which the Issuer or any Guarantor leases or subcontracts the Operation Conditions to the NewCo, the Issuer or any Guarantor may then enter into a subsequent Operation Conditions Transfer to sell, transfer or otherwise assign the Operation Conditions to the NewCo.

"Operation Transfer Notice" means any form delivered by the Issuer to the Monitor in connection with any Operation Conditions Transfer, setting forth (i) the name, address and phone number of the NewCo, (ii) the names of the individual or individuals who control the NewCo and (iii) a reasonably detailed description of the terms and conditions of the requested Operation Conditions Transfer, including a copy of the documents giving effect thereto.

"Release Date" means the first date following the occurrence of both (i) the Trigger Date and (ii) the Excess Cash Sweep Termination Date.

"Residual Payments" means a payment equal to the cash proceeds received by the Issuer and the Guarantors in respect of the operation or sale of the aggregate residual assets of the Issuer and the Guarantors following payment of the Terminal Sale New Note Proceeds, as applied by the Issuer, the Guarantors or any other Person on behalf of the Issuer and the Guarantors towards redemption of the New Notes in accordance with Section 3.03(b) hereof; *provided* that the sum of such amounts paid to Holders pursuant to clauses (i) and (ii) of this definition shall not be less than \$5.0 million in the aggregate (such minimum amount, the "Residual Payment Floor"). For the avoidance of doubt, any Terminal Sale New Note Proceeds delivered to the Holders shall be disregarded for determining whether the Residual Payment Floor has been satisfied.

"Residual Retained Amount" means (i) the Retained Amount less (ii) amounts applied for the payment of the remaining labor, severance and tax obligations and liabilities of the Sale Parties (as defined below) in an aggregate principal amount not to exceed 35,000,000,000 Chilean pesos.

"Retained Amount" means an aggregate amount not to exceed UF1,500,000 to be retained solely to be applied for the payment of the remaining labor, severance and tax obligations and liabilities of the Sale Parties pursuant to certain contracts with MTT.

"Sale Parties" means the Issuer, any Guarantor, any Shareholder Manager and any of its or their respective Affiliates.

"Shareholder Managers" means, collectively, each of Carlos Mario Ríos Velilla and Francisco Javier Ríos Velilla.

"<u>Terminal Sale</u>" means the transaction by which the Issuer and the Guarantors intend to sell all of their rights under the Bus Terminal Assets to Consorcio for an aggregate purchase price of UF 3,257,313.

"<u>Terminal Sale New Note Proceeds</u>" means 84% of the Net Terminal Sale Proceeds.

"<u>Terminal Sale Shareholder Proceeds</u>" means 16% of the Net Terminal Sale Proceeds.

"<u>Terminal Sale Proceeds</u>" means an amount in cash equal to the sum of (i) cash payments received or to be received (including any cash payment received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise) by the Sale Parties from the Terminal Sale, *plus* (ii) the fair market value of any securities or other assets received or to be received by the Sale Parties from the Terminal Sale; *provided*, that in no event shall "Terminal Sale Proceeds" be less than UF 3,257,313.

"Transfer Conditions" (a) means legally enforceable representations, warranties and covenants of the transferees in any NewCo Transfer to (i) pay all of the out of pocket costs and expenses of the Issuer and the Guarantors related to the negotiation, execution, and consummation of the NewCo Transfer, (ii) turn over or pay to the Issuer and the Guarantors any and all payments received by such transferee and their Affiliates relating to or arising out of any rights of the Issuer and the Guarantors accrued on or before the date of consummation of the NewCo Transfer, and (iii) waive any and all claims against the Issuer and the Guarantors arising out of, related to, or resulting from the Operation Conditions Transfer and the NewCo Transfer (it being understood that the Issuer and the Guarantors shall have no indemnity obligations or any other obligations to the transferee or transferees following the consummation of the NewCo Transfer); provided that the Issuer and the Guarantors shall also waive any and all claims against such transferee arising out of, related to, or resulting from the NewCo Transfer (it being understood that the transferee or transferees shall have no indemnity obligations or any other obligations to the Issuer and the Guarantors following the consummation of the NewCo Transfer) and (b) (i) the Issuer and the Guarantors shall not be in material breach of any term or condition of the Amended and Restated Forbearance Agreement as of the date of the proposed Operation Conditions Transfer or NewCo Transfer, as certified by the certificate delivered by the Shareholder Managers pursuant to Section 4.05(f)(i) or 4.05(g)(i) hereof, as applicable, (ii) no Lien on the Operation Conditions shall be released unless and until the occurrence of the Trigger Date, (iii) no assets shall (including but not limited to any receivables from any Person, including but not limited to Express, MTT, or any other Governmental Authority representing the government of the Republic of Chile) be transferred as part of any Operation Conditions Transfer other than the Operation Conditions unless the Issuer or any Guarantor receives consideration in an aggregate amount at least equal to the price of such asset(s) other than the Operation Conditions which could be negotiated in an arm's-length free market transaction, as approved by the Monitor, (iv) no assets shall (including but not limited to any receivables from any Person, including but not limited to Express, MTT, or any other Governmental Authority representing the government of the Republic of Chile) be transferred as part of the NewCo Transfer (in the case of a Post-Trigger NewCo Transfer, other than the NewCo and the Operation Conditions) unless the Issuer or any Guarantor receives consideration in an aggregate amount at least equal to the price of such asset(s) (in the case of a Post-Trigger NewCo Transfer, other than the NewCo and the Operation Conditions) which could be negotiated in an arm's-length free market transaction, as approved by the Monitor, (v) the Issuer and the Guarantors shall have made all payments due and owing pursuant to the Bondholder Advisor Fees (as defined below) and shall have paid all fees and expenses (including, but not limited to, attorneys' fees and expenses) of the Secured Party Trustees) due and owing pursuant to the Finance Agreements, (vi) the definitive agreement documenting the NewCo Transfer shall include the conditions set forth in clause (a) of this definition, and (vii) the Operation Conditions Transfer or NewCo Transfer, as applicable, shall have been approved by the Monitor pursuant to Section 4.05(f) or 4.05(g) hereof, as applicable.

"Trigger Date" means the first date following the occurrence of (i) the date on which the Terminal Sale New Note Proceeds have been applied in accordance with Section 3.03(d); (ii) the date on which the Residual Payments shall have been made in an amount equal to or greater than the Residual Payment Floor; and (iii) the payment in full of (w) all of the outstanding fees, expenses and other amounts due and owing to the Secured Party Trustees pursuant to the Finance Agreements (including, but not limited to, attorneys' fees and expenses), (x) all of the reasonable and documented fees of each of Dechert LLP, Quinn Emanuel Urquhart & Sullivan, LLP and Claro & Cia (collectively, the "Bondholder Advisors") during the period commencing on January 1, 2019 through and until the Forbearance Date, capped at US\$300,000, US\$70,000 and US\$70,000, respectively, (v) the reasonable and documented fees and expenses of the Bondholder Advisors incurred after the Forbearance Date and solely in connection with the enforcement or administration of the Amended and Restated Forbearance Agreement pursuant to the terms thereof (such fees pursuant to clauses (iii)(x) and (y) of this definition, the "Bondholder Advisor Fees") and (z) all amounts due and owing under Section 4.05(e)(iv) (which shall include, for the avoidance of doubt, all amounts payable to the Monitor thereunder).

"<u>Trustee Indemnity Amount</u>" means the fees, expenses and other amounts due and payable to the Secured Party Trustees (including, but not limited to, attorneys' fees and expenses) in respect of certain indemnities agreed separately.

"UF" means an *Unidad de Fomento*, as determined by the Central Bank of Chile.

(b) The definitions of "Change of Control," "Excess Cash," "Excess Cash Determination Date" and "Excess Cash Redemption Date" shall be amended and restated in their entirety as follows:

"Change of Control" means the occurrence of any of the following events: (a) the sale, transfer, conveyance or other disposition (including by way of a merger or consolidation transaction permitted by Section 5.01) of all or substantially all of the properties or assets of the Issuer and the Guarantors, taken as a whole, to any Person (other than to (i) Grupo GPS, or (ii) any Affiliate of Grupo GPS); provided that the Terminal Sale, any Operation Conditions Transfer or a NewCo Transfer, shall not be considered a Change of Control; (b) Grupo GPS ceases to own, directly or indirectly, securities representing more than 50% of the Voting Stock of the Issuer and each Guarantor; or (c) Grupo GPS ceases to have, directly or indirectly, the power to elect, or shall not have elected, the managing partner or similar entity directing the management or operation of the Issuer and each Guarantor or a majority of the Board of Directors of the Issuer and each Guarantor.

"Excess Cash" means an amount equal to the greater of (i) the aggregate amount of cash in (i) the Company Accounts and (ii) prior to a NewCo Transfer permitted hereunder, all banking accounts of Eco Uno, NewCo and each of their Subsidiaries, in each case, as of the relevant Excess Cash Determination Date after giving effect to (A) the Reconciliation and (B) the transfers set forth in Section 4.02(b)(i)(A) and (iii) on such Transfer Date, less the sum of (A) Repair Payments segregated in accordance with clauses (iii) and (iv) under Section 4.03(v) and certified in writing on a monthly basis by the Issuer to the Monitor and (B) US\$1.0 million and (ii) US\$0.

"Excess Cash Determination Date" means each Transfer Date immediately preceding an Excess Cash Redemption Date with respect to any redemption or other payment required to made to the Holders pursuant to Section 3.03(a), Section 3.03(b) or Section 3.03(d).

"Excess Cash Redemption Date" means the last day of each month (or, if any such day is not a Business Day, on the following Business Day) beginning on the Forbearance Date.

- (c) The definition of "Permitted Investment" shall be amended by deleting "and" after clause (i), inserting "; and" at the end of clause (i) and adding the following clause (k) immediately after clause (j) included therein:
  - (k) repurchase of any of the New Notes by the Issuer pursuant to Section 3.03(a), 3.03(b) and 3.03(d), it being understood for the avoidance of doubt that the Issuer is not required to pledge such repurchased New Notes and that the Issuer is required to cancel such repurchased New Notes.

# Section 2.02. Redemption.

(a) Section 3.03(a) of the Original Indenture shall be amended and restated in its entirety as follows:

Mandatory Redemption upon Termination Event or Expropriatory Action.

(i) Upon the occurrence of a Termination Event or any Expropriatory Action **prior to the Release Date**, **the Issuer shall apply 80% of** the Expropriation Compensation received to mandatorily redeem New Notes at par value in accordance with Section 3.03(b) and then towards any accrued and unpaid interest outstanding

under the New Notes. The 20% of Expropriation Compensation that is not so applied shall be distributed to one or more accounts (which may be in the name of the Shareholder Managers or their nominees) (the "Shareholder Manager Accounts"), and in such amounts as are designated by each of the Shareholder Managers (or their designees) (the "Shareholder Expropriation Payments"). If any Termination Event or any Expropriatory Action occurs on or after the Release Date, the Issuer shall apply 100% of the Expropriation Compensation as a Shareholder Expropriation Payment.

- (ii) In addition, <u>prior to the Release Date</u> the Issuer and the Guarantors shall thereafter promptly sell all assets no longer useful in conducting the Permitted Business, and shall apply (i) 80% of the Net Available Cash from such Asset Disposition or Asset Dispositions to <u>mandatorily redeem New Notes at par value and then towards any accrued and unpaid interest outstanding under the New Notes and (ii) 20% of the Net Available Cash from such Asset Disposition or Asset Dispositions to <u>make Shareholder Expropriation Payments</u>. In any redemption under <u>this Section 3.03(a)</u>, the redemption price of the New Notes to be redeemed will be equal to (a) the principal amount of such New Notes, plus (b) any unpaid interest on such principal amount accrued through the applicable Redemption Date, plus (c) Additional Amounts, if any, payable in respect of such New Notes. <u>In case the sale of assets no longer useful in conducting the Permitted Business occurs on or after the Release Date, the Net Available Cash from such Asset Disposition or Asset Dispositions, shall be applied to make Shareholder Expropriation Payments.</u></u>
- (iii) In connection with any mandatory redemption, the aggregate amount of funds on deposit and available for distribution to the Holders on the date of such redemption in the Payment Account will be applied, pro rata based on the outstanding principal balance of the New Notes, to satisfy payment, in whole or in part, of the redemption price referred to in the immediately preceding paragraphs and then towards any accrued and unpaid interest outstanding under the New Notes.
- (b) Section 3.03(b) of the Original Indenture shall be amended and restated in its entirety as follows:

<u>Mandatory Redemption With Excess Cash</u>. On each Excess Cash Redemption Date until the Excess Cash Sweep Termination Date, the Issuer will apply:

- (i) <u>80%</u> of any Excess Cash as calculated as of the immediately preceding Excess Cash Determination Date to mandatorily redeem New Notes <u>at par value</u> on such Excess Cash Redemption Date in accordance with this Article 3 ("<u>Excess Cash Redemptions</u>") <u>and then towards any accrued and unpaid interest outstanding under the New Notes</u>; <u>and</u>
- (ii) The 20% of Excess Cash as calculated as of the immediately preceding Excess Cash Determination Date (the "Shareholder Management") shall be transferred to the Shareholder Manager Accounts.

On or after the Release Date, 100% of any Excess Cash, as calculated as of the immediately preceding Excess Cash Determination Date shall be transferred to the Shareholder Manager Accounts.

The Issuer will calculate the amount of Excess Cash based on the Reconciled balances on deposit in the Company Accounts as of the relevant Excess Cash Determination Date. On the Transfer Date prior to any Excess Cash Redemption Date, the Issuer and the Guarantors shall deliver to the Trustee an Officers' Certificate executed by the respective chief financial officer and chief executive officer of each of the Concessionaires certifying in reasonable detail such Excess Cash calculation, accompanied by a notice of redemption in the amount of such Excess Cash Redemption.

(c) Section 3.03 of the Original Indenture shall be amended by adding the following clause (d) immediately after Section 3.03(c) included therein:

## Mandatory Redemption upon the Terminal Sale.

- (i) Upon the occurrence of the Terminal Sale, the Issuer and the Guarantors shall cause the Terminal Sale Proceeds to be applied as follows as soon as practicable after such proceeds become available to the Issuer or any Guarantor:
  - (A) first, to make all payments and retentions specified in the defined term "Net Terminal Sale Proceeds" in the order (and subject to the caps and limitations) set forth in such defined term; and
  - (B) second, promptly (and in any event, not later than one (1) Business Day) upon receipt of the corresponding Terminal Sale Proceeds, cause the Terminal Sale New Note Proceeds to be applied by the Issuer towards redemption of the New Notes in accordance with Section 3.03(b)(i) and then towards any accrued and unpaid interest outstanding under the New Notes; and
  - (C) third, cause the Terminal Sale Shareholder Proceeds to be transferred by the Issuer to one or more accounts, and in such amounts as are designated by the Shareholder Managers (which may be in the name of the Shareholder Managers or their nominees) (the "Shareholder Use of Proceeds");
- (ii) For the avoidance of doubt, (i) as the Terminal Sale Proceeds are expected to be received by the Issuer in multiple disbursements on separate days, the distribution of the Terminal Sale Proceeds as set forth in Section 3.03(d)(i) is likewise expected to occur over multiple days such that each application of Terminal Sale Proceeds must be fully completed in the order listed in such Section 3.03(d)(i) before proceeding to the subsequent application such that the full amount of the Terminal Sale New Note Proceeds must be applied before any payment is made in respect of the Shareholder Use of Proceeds and (ii) as the Residual Retained Amount may be received by the Issuer after applying the Terminal Sale New Note Proceeds, in the event that this occurs, the Residual Retained Amount shall be applied exclusively to fund the Shareholder Use of Proceeds in an amount not to exceed the Terminal Sale Shareholder Proceeds (including any amounts previously paid with respect thereto).
- (d) Section 3.10 of the Original Indenture shall be amended and restated in its entirety as follows:

<u>Payment of New Notes Called for Redemption</u>. If notice of redemption has been given in the manner provided above, the New Notes or portion of New Notes specified in such notice to be redeemed shall become due and payable on the Redemption Date at the

Redemption Price stated therein, together with accrued interest to such Redemption Date, and Additional Amounts, if any (provided that, for the avoidance of doubt, in case there is accrued interest or Additional Amounts, then the redemption shall be deemed applied, in the following order, to the outstanding principal of the New Notes, accrued interest and Additional Amounts, if any) and on and after such date (unless the Issuer shall default in the payment of such New Notes at the Redemption Price and accrued interest to the Redemption Date, and Additional Amounts, if any, in which case the principal, until paid, shall bear interest from the Redemption Date at the rate prescribed in the New Notes), such New Notes shall cease to accrue interest. Upon surrender of any New Note for redemption in accordance with a notice of redemption, such New Note shall be paid and redeemed by the Issuer at the Redemption Price, including accrued interest, if any, to the Redemption Date and Additional Amounts, if any (provided that, for the avoidance of doubt, in case there is accrued interest or Additional Amounts, then the redemption shall be deemed applied, in the following order, to the outstanding principal of the New Notes, accrued interest and Additional Amounts, if any); provided that installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders registered as such at the close of business on the relevant Regular Record Date.

## Section 2.03 <u>Treatment of Funds</u>.

(a) Section 4.02(a)(v) of the Original Indenture shall be amended and restated in its entirety as follows:

cash proceeds from any Asset Disposition, *provided*, that Terminal Sale Proceeds will not be subject to the order of priority set forth under Section 4.02(b), Section 4.02(c), and Section 4.02(d), but will be segregated and applied in due time to the purposes, and in the percentages and amounts, provided for in Section 3.03(d)(i); and

- (b) Section 4.02(b)(i) of the Original Indenture shall be amended and restated in its entirety as follows:
  - (i) *first*, into the O&M Accounts, until the balance in such accounts equals the aggregate amount of (A) fees, expenses and any other amounts due and payable to the Secured Party Trustees during the following Transfer Period, plus (B) [Reserved], plus (C) [Reserved];
- (c) Section 4.02(b)(ii) of the Original Indenture shall be amended and restated in its entirety as follows:

[Reserved]

(d) Section 4.02(b)(iii) of the Original Indenture shall be amended and restated in its entirety as follows:

# second,

to the Agents the amount of fees and expenses due and payable to each of them during the following Transfer Period;

(e) Section 4.02(b)(iv) of the Original Indenture shall be amended and restated in its entirety as follows:

[Reserved]

(f) Section 4.02(b)(v) of the Original Indenture shall be amended and restated in its entirety as follows:

[Reserved]

(g) Section 4.02(b)(vi) of the Original Indenture shall be amended and restated in its entirety as follows:

[Reserved]

(h) Section 4.02(d)(i) of the Original Indenture shall be amended and restated in its entirety as follows:

third, to the Excess Cash Redemption Account <u>and Shareholder Manager</u> <u>Accounts</u> in the amount<u>s</u> necessary to make Excess Cash Redemptions and <u>Shareholder</u> <u>Management Payments</u>, respectively, in accordance with Section 3.03(b).

(i) The Holders waive the application of Section 4.02(l) of the Original Indenture solely with respect to Shareholder Management Payments and the Shareholder Use of Proceeds made in compliance with the terms hereof.

# Section 2.04 <u>Affirmative Covenants</u>.

- (a) The Holders waive the application of Section 4.03(f) of the Original Indenture to the Bus Terminal Assets.
- (b) The Holders waive any Event of Default that occurs solely as a result of the Terminal Sale as contemplated hereby.
- (c) Section 4.03(z) of the Original Indenture shall be amended and restated in its entirety as follows:

[Reserved]

## Section 2.05 Negative Covenants.

(a) Section 4.04(b) of the Original Indenture shall be amended and restated in its entirety as follows:

Limitations on Restricted Payments. At any time prior to the Release Date (i) the Issuer and the Guarantors will not make any Restricted Payments except for (A) Shareholder Expropriation Payments only in accordance with Section 3.03(a), Shareholder Management Payments only in accordance with Section 3.03(b) and Shareholder Use of Proceeds only in accordance with Section 3.03(d) and (B) the following Restricted Payments (the "Permitted Management Payments"), each of which may be made only if, at the time of such Restricted Payment, no Payment Event of Default has occurred and is continuing:

- Notwithstanding anything in this First Supplemental Indenture or the Original Indenture to the contrary, from and after the NewCo Transfer Date, no Shareholder Manager shall be entitled to receive any Permitted Management Payments, and the Issuer shall not make any such payments to any Shareholder Manager following the NewCo Transfer Date, it being understood, for the avoidance of doubt, that Permitted Management Payments shall not include and the Issuer and the Guarantors shall be permitted to pay (A) customary director fees payable to no more than three (3) members of the board of directors of the Issuer, five (5) members of the board of directors of Express and five (5) members of the board of directors of NewCo, provided that (w) the amount payable to each board member pursuant to this clause (A) shall not exceed US\$4,500 plus taxes per month, (x) beginning on July 1, 2020, no board member shall be paid twice on account of his or her membership on the boards of directors of both the Issuer and Express, (y) no board member shall be paid twice on account of his or her membership on the boards of directors of both NewCo and the Issuer or Express and (z) Carlos Mario Rios Velilla and Francisco Javier Ríos Velilla shall not receive compensation pursuant to this clause (A) and (B) documented taxes and administrative expenses of Panamerican and EcoUno for an aggregate amount not to exceed US\$125,000 in any fiscal year, provided that Panamerican and EcoUno shall be Guarantors as of the date of any applicable payment, (C) Shareholder Expropriation Payments, Shareholder Use of Proceeds and Shareholder Management Payments and (D) any proceeds the Shareholder Managers have the right to receive, directly or indirectly, as a result of the voluntary or involuntary liquidation of the Issuer and/or the Guarantors, if any.
- (c) The Holders waive the application of Section 4.04(b) of the Original Indenture to the use of the Terminal Sale Proceeds in the manner set forth in Section 3.03(d).
- (d) Section 4.04(d)(viii)-(ix) of the Original Indenture shall be amended and restated in its entirety as follows:
  - (viii) unless within 270 days after the later of the date of such Asset Disposition and the receipt of the Net Available Cash, the Issuer or any Guarantor, as applicable:
    - (A) applies an amount equal to 100% of the Net Available Cash from such Asset Disposition:
      - (1) to invest, or to enter into a binding agreement to invest within 30 days, in Replacement Assets;
        - (2) [Reserved]
        - (3) [Reserved]
    - (B) applies 100% of the Net Available Cash from such Asset Disposition towards the items described in clause (y) of the definition of Net Terminal Sale Proceeds, Excess Cash Redemptions and Shareholder Management Payments in the percentages described in Section 3.03(b);

provided that any Net Available Cash pursuant to this clause (viii) will be deposited in the Revenue Account and will not be subject to the order of priority set forth under Section 4.02(b), Section 4.02(c), and Section 4.02(d) above, but it will be segregated and applied in due time to the purposes provided for in (A) and (B) above subject to the delivery by the Concessionaires to the Trustee of an Officers' Certificate setting forth, in reasonable detail, the purpose and nature of the utilization of such Net Available Cash, that such Asset Disposition was made,

and such application of funds will be made, in compliance with all other provisions of this Indenture, including the other provisions of this Section 4.04(d), Section 4.04(b) and Section 4.04(j), and that it will be used in good faith and on an arm's-length basis. Any purchase of Replacement Assets with such Net Available Cash proceeds will not be subject to the covenant restrictions applicable to CAPEX Costs;

- (ix) following any Termination Event in respect of a Concession Agreement, to the extent the Net Available Cash from such Asset Disposition is used, to redeem the New Notes <u>at par value and pay Shareholder Expropriation Payments</u> pursuant to Section 3.03(a);
- (e) New Sections 4.04(d)(x) and (xi) shall be added to the Original Indenture as follows:
- (x) the sale of the Bus Terminal Assets pursuant to the Terminal Sale, *provided* that Terminal Sale Proceeds will not be subject to the order of priority set forth under Section 4.02(b), Section 4.02(c), and Section 4.02(d) above, but will be segregated and applied in due time to the purposes, and in the percentages and amounts, provided for in Section 3.03(d)(i); or
  - (xi) any NewCo Transfer.
- (f) The Holders otherwise waive the application of Section 4.04(d) to the extent necessary to permit the Terminal Sale.
- (g) Section 4.04(f) of the Original Indenture shall be amended and restated in its entirety as follows:

Abandonment of Project. Each Concessionaire will not voluntarily (i) suspend its commercial activities for more than 24 hours other than, to the extent consistent with such Concessionaire's obligations under its Concession Agreement, due to safety concerns, at the insistence of such Concessionaire's insurer or any governmental instrumentality or consistent with prudent industry practices, (ii) suspend any activities that would result in a loss of 15% of revenues of the Concessionaires on a combined basis for more than 30 days, or (iii) permanently close the Bus Network or any Permitted Business or cease, abandon or agree to abandon the operation of the Bus Network or any Permitted Business (other than upon the scheduled termination of any Concession Agreement); provided that Express may, at its sole discretion, cease or abandon its activities, including the operation of the Bus Network and any Permitted Business, upon any Operation Conditions Transfer.

(h) Section 4.04(g) of the Original Indenture shall be amended and restated in its entirety as follows:

Change of Fiscal Year; Nature of Business; Subsidiaries. The Concessionaires will not change their fiscal years, except as required by law, or engage in any business other than a Permitted Business. The Issuer and Guarantors shall not have, directly or indirectly, any Subsidiaries other than (i) the Guarantors as of the Issue Date and any other Subsidiary that becomes a Guarantor after the Issue Date, (ii) Lorena, (iii) Unrestricted Subsidiaries described in the Disclosure Statement (iv) Vendor Financing SPVs and (v) NewCo, which shall be a Special Guarantor (as defined below) Wholly

Owned by Eco Uno, *provided* that, for the avoidance of doubt, from and after any Operation Conditions Transfer and until a NewCo Transfer permitted pursuant to the terms hereof, each of Eco Uno, NewCo and each of their Subsidiaries shall be treated for all purposes under the New Notes and the Security Documents as if they were Restricted Subsidiaries.

(i) Section 4.04(i) of the Original Indenture shall be amended and restated in its entirety as follows:

Other than as set forth in the Security Documents, the Issuer and the Guarantors will not assign or otherwise transfer their rights or obligations under any Transaction Document or governmental authorization to any Person; *provided* that the Concessionaires may assign or otherwise transfer their rights or obligations under any Operating Agreement or governmental authorization only between themselves in compliance with the terms and conditions set forth therein; *provided further* that the Concessionaires may undertake one or more Operation Conditions Transfers and, NewCo may in turn be sold, transferred or disposed of pursuant to any NewCo Transfer.

(j) Section 4.04(j) of the Original Indenture shall be amended by deleting "and" after clause (iv), adding "; and" before the period in clause (v) and adding the following clauses (vi) and (vii) immediately after the ultimate clause (v) included therein:

#### (vi) any Operation Conditions Transfer; or

## (vii) following the occurrence of the Trigger Date, the NewCo Transfer.

(k) The Holders waive the application of Section 4.04(j) of the Original Indenture to the extent required to allow transactions between the Issuer and the Guarantors and the NewCo prior to the NewCo Transfer Date.

## Section 2.06 <u>Additional Covenants</u>.

(a) Section 4.05(a) of the Original Indenture shall be amended and restated in its entirety as follows:

Nature of Business. Panamerican and Eco Uno will not engage in any business activity other than (i) the direct or indirect ownership of shares of the Issuer and/or one or more of the Guarantors held by them on the date of this Indenture or any additional shares; *provided* that the same are promptly pledged to secure their Guarantees; (ii) as otherwise required or contemplated in connection with the Finance Agreements and intercompany transfers pursuant thereto and, as applicable, intercompany obligations owing to or from the Issuer and/or one or more of the Guarantors and (iii) Eco Uno may form and hold the NewCo, and the NewCo may operate the Operation Conditions.

- (b) A new Section 4.05(e) shall be added to the Original Indenture as follows:
- (i) <u>Bus Request Notice</u>. At any time prior to the Release Date, prior to consummating any Bus Transaction, the Concessionaires shall deliver to an individual designated by the Holders representing a majority of the aggregate outstanding principal amount of the New Notes (the "Monitor") (A) a Bus Request Notice setting forth the

proposed terms of any proposed Bus Transaction, including, but not limited to, a description of the material terms of such proposed transaction in sufficient detail to enable the Monitor to assess the condition of the assets proposed to be transacted, the identity of the transacting parties, the value of the consideration being exchanged and the terms and conditionality of payment and (B) any additional information as the Monitor shall reasonably and appropriately request in connection therewith.

# (ii) <u>Monitor Approval and Effective Date</u>.

- (A) The Monitor shall conclude its review of each Bus Request Notice no later than fifteen (15) days following receipt of a Bus Request Notice delivered pursuant to Section 4.05(e)(i) (including, without limitation, any follow-up information requested by the Monitor), provided, that the Monitor may extend such fifteen (15) day period by an additional seven (7) days by delivering notice of such extension to the Issuer prior to the expiration of such fifteen (15) day period (such review period, including any permitted extension thereof, the "Review Period"). Upon the conclusion of the Monitor's review of each Bus Request Notice, the Monitor shall deliver to the Issuer a written response with respect to each of the proposed Bus Transactions described therein, which shall set forth (i) the Monitor's approval of such Bus Transaction, (ii) the Monitor's rejection of such Bus Transaction, which rejection shall include a brief description by the Monitor of the reasons for such rejection (it being agreed that the Monitor may reject any such Bus Transaction for any reason) or (iii) the Monitor's approval of such Bus Transaction subject to any conditions imposed by the Monitor. In the event that the Monitor fails to respond to a Bus Request Notice within the Review Period, the Issuer may deem such request as approved and consummate the Bus Transactions within sixty (60) days following the expiration of such Review Period, on terms no less favorable to the Issuer than those described in the applicable Bus Request Notice, and provided that the Issuer provide prompt written notice of such consummation, including a description of the final terms thereof, to the Monitor.
- (B) Notwithstanding any other provision of this Indenture, including but not limited to the provisions set forth in Section 4.03, 4.04 and 4.05 of this Indenture, upon the Issuer's receipt of the approval or conditioned approval of any such Bus Transaction, the Issuer shall have the right to consummate such Bus Transaction on terms no less favorable to the Issuer than those approved by the Monitor (including any conditions imposed thereby), provided that such Bus Transaction is consummated on or before the date that is sixty days following the Issuer's receipt of the Monitor's consent to effect such Bus Transaction, provided, further, that such term shall be extended by an additional thirty days if the Issuer is engaged in good faith negotiations with the relevant counterparty to such Bus Transaction and provides a notice to such effect to the Monitor prior to the end of the initial sixty-day period (the "Bus Transaction Consummation Period").
- (C) If (1) the Monitor rejects a proposed Bus Transaction or (2) the Issuer fails to consummate an approved Bus Transaction within the Bus Transaction Consummation Period, then the Issuer shall not effect such Bus Transaction or any other disposition of the related assets without submitting such

Bus Transaction in a subsequent Bus Request Notice for the Monitor's review and approval pursuant to this Section 4.05(e).

- (D) Within five (5) Business Days of receiving a written request from the Issuer with respect to an upcoming Bus Transaction approved pursuant to Section 4.05(e)(ii), the Monitor shall provide a written instruction (which instruction shall be governed under Chilean law and meet the requirements for registration in Chile) directing the Collateral Trustees, at the sole cost and expense of the Issuer, to take such actions necessary to implement the consents, agreements and waivers granted by the Monitor pursuant to Section 4.05(e)(ii), including if applicable by providing instruction to any of their respective sub-trustees or agents to enter into agreements or releases of the Concession Pledge Agreements for which a consent has been given in Section 4.05(e)(ii) herein.
- If the Controlling Party fails to appoint a replacement Monitor (E) within sixty (60) days of the resignation or removal of a Monitor in accordance with Section 4.05(e)(vi) below, the Issuer may thereafter deliver Bus Request Notices to the Holders by notifying Dechert LLP and Quinn Emanuel Urquhart & Sullivan, LLP, counsel for the Controlling Party, or any other counsel that is appointed by the Controlling Party in consultation with the Issuer, in accordance with Section 13.02 herein and the Trustee. Any Bus Transaction described in a Bus Request Notice delivered to the Holders as set forth in this Section 4.05(e)(ii)(E) shall be deemed approved if the Holders representing 40% of the aggregate outstanding principal amount of New Notes outstanding fail to appoint a replacement Monitor within five (5) Business Days following delivery of such Bus Request Notice to counsel and the Trustee, whereupon the Holders shall be deemed to have provided the relevant waivers and instructions required by this Section 4.05(e)(ii) and the Issuer may consummate the Bus Transactions during the Bus Transaction Consummation Period on terms no less favorable to the Issuer than those described in the applicable Bus Request Notice, and provided that the Issuer provide prompt written notice of such consummation, including a description of the final terms thereof, to the Monitor or, if one has not been appointed, to Holders as set forth in this Section 4.05(e)(ii)(E). In the event the Holders appoint a new Monitor within such five (5) Business Days period, the new Monitor shall review such Bus Request Notice within the same time period set forth in Section 4.05(e)(ii)(A) above.

#### (iii) Access to Information; Confidentiality.

(A) The Issuer shall, and shall cause the Guarantors to, grant the Monitor access to books, records, documents and information relating to each Bus Transaction, the occurrence of the Trigger Date and the occurrence of the Excess Cash Sweep Termination Date (the "Monitored Transactions") and such other information related thereto that may be reasonably requested from time to time by the Monitor, in each case to the extent permitted by Applicable Law. Notwithstanding the foregoing, none of the Issuer or any Guarantor shall be required to disclose any information to the Monitor if such disclosure would, as determined by the Issuer in its reasonable discretion (x) cause the waiver of any attorney-client or other legal privilege or (y) violate any Applicable Law.

- (B) The Monitor's rights shall be subject to the Monitor's execution and delivery of a customary and reasonable confidentiality agreement. Confidential business information shall not be disclosed by the Monitor to any third party other than:
  - (1) agents of the Monitor who have signed a confidentiality acknowledgement requiring them to abide by the confidentiality terms of this Indenture; or
  - (2) the Bondholder Advisors and any other attorneys, lawyers or other representatives or assistants employed by the Monitor who have signed a confidentiality agreement requiring them to abide by the terms of this Indenture.
- Upon termination of the Monitor's duties provided herein, the Monitor shall promptly (x) return to the Issuer or destroy all confidential records provided to the Monitor by the Issuer and (y) destroy any records prepared by the Monitor that contain or reflect any confidential business information of the Issuer. The Monitor shall make no use of any confidential business information of the Issuer, or any information derived directly or indirectly from any confidential business information of the Issuer, following termination of its duties, other than in connection with any dispute regarding the Amended and Restated Forbearance Agreement or any Finance Agreement, or in connection with any actual or anticipated litigation relating to such Amended and Restated Forbearance Agreement, any Finance Agreement or to any Bus Transaction or the occurrence of the Trigger Date. Notwithstanding anything in this Section 4.05(e)(iii) to the contrary, the Monitor (i) may retain data or electronic records containing any confidential information created pursuant to automatic archiving and backup procedures which is not routinely available to an end user and (ii) may keep copies of any confidential information to the extent such is required for the Monitor to comply with applicable law, regulation, legal process, bona fide internal compliance or document retention policies or professional standards.
- (iv) <u>Compensation</u>. The Issuer shall be responsible for all reasonable and documented fees and expenses properly charged or incurred by the Monitor in the course of carrying out its duties hereunder in an aggregate amount not to exceed US\$75,000 in any fiscal year, plus the reasonable and customary fees and expenses of any advisors hired by Monitor in connection with the execution of its duties hereunder, provided that such fees and expenses shall not exceed 25% of the aggregate value of all Bus Transactions described in all Bus Request Notices delivered during any six-month period. The Issuer shall pay the Monitor an annual fee of \$75,000, payable semi-annually in advance (other than out-of-pocket fees and expenses, which shall be invoiced monthly in arrears).
- (v) <u>Initial Appointment</u>. The Controlling Party has previously appointed Alejandro Wolff to act as the Monitor on the terms set forth herein. The Controlling Party hereby reaffirms the appointment of Alejandro Wolff as Monitor effective as of September 27, 2019.

# (vi) <u>Term and Termination</u>.

- (A) The Monitor may resign at any time by giving thirty days' prior written notice to the Controlling Party, the Trustee and the Issuer and may be removed at any time (A) by the Controlling Party with or without cause or (B) by the Issuer, with cause or upon the Monitor's failure to (x) timely respond to a Bus Request Notice set out in Section 4.05(e)(ii) (provided that the Monitor shall have failed to so timely respond at least once in the preceding twelve (12) month period), (y) after approving a Bus Transaction, failing to provide the corresponding waivers and Collateral Trustee instructions as required by Section 4.05(e)(ii) (provided that prior to such removal, the Issuer shall deliver notice of such removal to the Monitor (with a concurrent copy to Dechert LLP and Quinn Emanuel Urquhart & Sullivan, LLP, counsel for the Controlling Party, or any other counsel that is appointed by the Controlling Party in consultation with the Issuer, in accordance with Section 13.02 herein) and the Trustee setting forth the basis for such removal, and the Monitor shall have failed to cure such failure within seven (7) days following receipt of such notice) or (z) upon the occurrence of the Release Date, failing to provide notice to the Chilean Collateral Trustee (provided that prior to such removal, the Issuer shall deliver notice of such removal to the Monitor (with a concurrent copy to Dechert LLP and Ouinn Emanuel Urquhart & Sullivan, LLP, counsel for the Controlling Party, or any other counsel that is appointed by the Controlling Party in consultation with the Issuer, in accordance with Section 13.02 herein) and the Trustee setting forth the basis for such removal, and the Monitor shall have failed to cure such failure within seven (7) days following receipt of such notice). Upon any such resignation or removal, the Controlling Party shall within ten (10) Business Days appoint a successor Monitor who shall not be affiliated with any competitor of the Issuer or the Guarantors and shall otherwise be reasonably acceptable to the Issuer; provided that failure of the Controlling Party to appoint a successor Monitor shall not impede or hinder the consummation of the transactions contemplated by the Monitored Transactions.
- (B) The rights and obligations of the Monitor provided under this Section 4.05(e) shall terminate upon (A) the occurrence of a Forbearance Termination Event (as defined in the Amended and Restated Forbearance Agreement), (B) waiver by the Controlling Party of the right to appoint a Monitor or (C) the later of (I) the occurrence of the Trigger Date immediately following the delivery of any written notice that must be provided by the Monitor upon the occurrence of the Trigger Date or (II) the occurrence of the Release Date immediately following the delivery of any written notice that must be provided by the Monitor upon the occurrence of the Release Date .

#### (c) A new Section 4.05(f) shall be added to the Original Indenture as follows:

(f) Operation Transfer Notice. (i) At any time prior to the Release Date, prior to consummating any Operation Conditions Transfer (or, in the case of a lease or subcontract, beginning such lease or subcontract period), the Issuer shall deliver to the Monitor (A) an Operation Transfer Notice, (B) a certificate signed by the Shareholder Managers certifying that (x) the Issuer and the Guarantors are in material compliance with the terms and conditions of the Amended and Restated Forbearance Agreement as of the date of the Operation Transfer Notice and (y) the conditions set forth in clause (b) of the definition of Transfer Conditions have been met and (C) any additional information as the Monitor shall reasonably and appropriately request in connection therewith. The

Operation Transfer Notice shall be delivered to the Monitor, the Trustee and the Controlling Party at least fourteen (14) days prior to the proposed Operation Transfer Date.

# (ii) Monitor Approval and Effective Date.

- (A) The Monitor shall conclude its review of each Operation Transfer Notice no later than seven (7) days following receipt of an Operation Transfer Notice delivered pursuant to Section 4.05(f)(i) (including, without limitation, any follow-up information requested by the Monitor), provided, that the Monitor may extend such seven (7) day period by an additional ten (10) days by delivering notice of such extension to the Issuer prior to the expiration of such seven (7) day period (such review period, including any permitted extension thereof, the "Operation Conditions Transfer Review Period"). conclusion of the Monitor's review of any Operation Transfer Notice, the Monitor shall deliver to the Issuer a written response with respect to the proposed Operation Conditions Transfer described therein, which shall set forth (i) the Monitor's approval of such Operation Conditions Transfer, (ii) the Monitor's rejection of such Operation Conditions Transfer, which rejection shall include a brief description by the Monitor of the reasons for such rejection (it being agreed that the Monitor may reject any such Operation Conditions Transfer only if the Transfer Conditions are not to be met) or (iii) the Monitor's approval of such Operation Conditions Transfer subject to any conditions imposed by the Monitor. In the event that the Monitor fails to respond to an Operation Transfer Notice within the Operation Conditions Transfer Review Period, the Issuer may deem such request as approved and consummate the Operation Conditions Transfer within thirty (30) days following the expiration of such Operation Conditions Transfer Review Period, on terms no less favorable to the Issuer than those described in the applicable Operation Transfer Notice, and provided that the Issuer provide prompt written notice of such consummation, including a description of the final terms thereof, to the Monitor, the Trustee and counsel to the Controlling Party.
- (B) Notwithstanding any other provision of this Indenture, including but not limited to the provisions set forth in Sections 4.04, 4.05 and 5.01 of this Indenture, upon the Issuer's receipt of the approval or conditioned approval of any such Operation Conditions Transfer, the Issuer shall have the right to consummate such Operation Conditions Transfer on terms no less favorable to the Issuer than those approved by the Monitor (including any conditions imposed thereby), *provided* that such Operation Conditions Transfer is consummated, or, in the case of a lease or subcontract, begun, on or before the date that is thirty (30) days following the Issuer's receipt of the Monitor's consent to effect such Operation Conditions Transfer (the actual date of such consummation or inception, the "Operation Transfer Date" and such thirty (30) day period, the "Operation Conditions Transfer Consummation Period").
- (C) If (1) the Monitor rejects a proposed Operation Conditions Transfer or (2) the Issuer fails to consummate (or, in the case of a lease or subcontract, begin) an approved Operation Conditions Transfer within the Operation Conditions Transfer Consummation Period, then the Issuer shall not effect such Operation Conditions Transfer or any other disposition of the related

assets without submitting such Operation Conditions Transfer in a subsequent Operation Transfer Notice for the Monitor's review and approval pursuant to this Section 4.05(f).

- (D) After the Release Date, no Operation Conditions Transfer Notice shall be required to consummate any Operations Conditions Transfer.
- (d) A new Section 4.05(g) shall be added to the Original Indenture as follows:
- (g) NewCo Transfer Notice. (i) At any time prior to the Release Date, prior to consummating any NewCo Transfer, the Issuer shall deliver to the Monitor (A) a NewCo Transfer Notice, (B) a certificate signed by the Shareholder Managers certifying that (x) the Issuer and the Guarantors are in material compliance with the terms and conditions of the Amended and Restated Forbearance Agreement as of the date of the NewCo Transfer Notice and (y) the conditions set forth in clause (b) of the definition of Transfer Conditions have been met and (C) any additional information as the Monitor shall reasonably and appropriately request in connection therewith. The NewCo Transfer Notice shall be delivered to the Monitor, the Trustee and the Controlling Party at least fourteen (14) days prior to the proposed NewCo Transfer Date.

#### (ii) Monitor Approval and Effective Date.

- The Monitor shall conclude its review of each NewCo Transfer Notice no later than seven (7) days following receipt of a NewCo Transfer Notice delivered pursuant to Section 4.05(g)(i) (including, without limitation, any follow-up information requested by the Monitor), provided, that the Monitor may (i) extend such seven (7) day period by an additional ten (10) days by delivering notice of such extension to the Issuer prior to the expiration of such seven (7) day period (such review period, including any permitted extension thereof, the "NewCo Transfer Review Period"). Upon the conclusion of the Monitor's review of any NewCo Transfer Notice, the Monitor shall deliver to the Issuer a written response with respect to the proposed NewCo Transfer described therein, which shall set forth (i) the Monitor's approval of such NewCo Transfer, (ii) the Monitor's rejection of such NewCo Transfer, which rejection shall include a brief description by the Monitor of the reasons for such rejection (it being agreed that the Monitor may reject any such NewCo Transfer only if the Transfer Conditions are not to be met) or (iii) the Monitor's approval of such NewCo Transfer subject to any conditions imposed by the Monitor. In the event that the Monitor fails to respond to a NewCo Transfer Notice within the NewCo Transfer Review Period, the Issuer may deem such request as approved and consummate the NewCo Transfer within thirty (30) days following the expiration of such NewCo Transfer Review Period, on terms no less favorable to the Issuer than those described in the applicable NewCo Transfer Notice, and provided that the Issuer provide prompt written notice of such consummation, including a description of the final terms thereof, to the Monitor and counsel to the Controlling Party.
- (B) Notwithstanding any other provision of this Indenture, including but not limited to the provisions set forth in Sections 4.04, 4.05 and 5.01 of this Indenture, upon the Issuer's receipt of the approval or conditioned approval of any such NewCo Transfer, the Issuer shall have the right to consummate such NewCo Transfer on terms no less favorable to the Issuer than those approved by

the Monitor (including any conditions imposed thereby), *provided* that such NewCo Transfer is consummated on or before the date that is thirty (30) days following the Issuer's receipt of the Monitor's consent to effect such NewCo Transfer (the actual date of such consummation, the "NewCo Transfer Date" and such thirty (30) day period, the "NewCo Transfer Consummation Period").

- (C) If (1) the Monitor rejects a proposed NewCo Transfer or (2) the Issuer fails to consummate an approved NewCo Transfer within the NewCo Transfer Consummation Period, then the Issuer shall not effect such NewCo Transfer or any other disposition of the related assets without submitting such NewCo Transfer in a subsequent NewCo Transfer Notice for the Monitor's review and approval pursuant to this Section 4.05(g).
- (D) After the Release Date, no NewCo Transfer Notice shall be required to consummate any NewCo Transfer.

Section 2.07 <u>Limitations on Consolidation, Merger or Transfer of Assets.</u> The first paragraph of Section 5.01 of the Original Indenture shall be amended and restated as follows:

Except for (i) the sale of the Bus Terminal Assets pursuant to the Terminal Sale, (ii) any Operation Conditions Transfer, (iii) any NewCo Transfer, (iv) any Bus Transaction, or (v) any transaction occurring on or after the Release Date, neither the Issuer nor any Guarantor will, directly or indirectly, in one or a series of related transactions, consolidate or merge with or into, or sell, assign, transfer, convey, lease or otherwise dispose of all or substantially all of its assets to, any Person or related Persons, unless:

Section 2.08 <u>Guarantee</u>. A new Section 12.09 shall be added to the Original Indenture as follows:

Special Guarantee. Upon its formation, the NewCo shall provide a special guarantee that shall be consistent with this Article 12 in all respects except that such special guarantee shall be automatically released upon a NewCo Transfer (the "Special Guarantee" and the NewCo giving such Special Guarantee, a "Special Guarantor"). For the avoidance of doubt, the NewCo shall not be a Guarantor and shall not provide a Guarantee, but rather shall be only a Special Guarantor and provide only a Special Guarantee (for the avoidance of doubt, a Special Guarantee shall be identical to a Guarantee in every manner other than the automatic release thereof as described in the definition of Special Guarantee).

Section 2.09 Notices. Section 13.02 of the Original Indenture shall be supplemented as follows:

if to the Controlling Party:

Quinn Emanuel Urquhart & Sullivan, LLP 51 Madison Avenue, 22nd Floor New York, NY 10010-1603 Facsimile: +1 212 849 7100

Attention: Dennis Hranitzky

and

Dechert LLP 1900 K Street, NW Washington, D.C. 20006-1110 Facsimile: +1 202 261 3333

Attention: Bernardo Piereck

or any other counsel that is appointed by the Controlling Party, as notified in writing by the Controlling Party to the Issuer and the Guarantors pursuant to this Section 13.02.

#### ARTICLE THREE

#### MISCELLANEOUS

- Section 3.01. <u>Effect of Supplemental Indenture</u>. This First Supplemental Indenture supplements the Original Indenture and shall be a part, and subject to all the terms, thereof. The Original Indenture, as supplemented and amended by this First Supplemental Indenture is in all respects ratified and confirmed, and the Original Indenture, as supplemented by this First Supplemental Indenture shall be read, taken and construed as one and the same instrument. All provisions included in this First Supplemental Indenture supersede any conflicting provisions included in the Original Indenture unless not permitted by law.
- Section 3.02. <u>Governing Law</u>. This First Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York.
- Section 3.03. <u>Notices</u>. All notices and communications hereunder shall be given in the manner set forth in Section 13.02 of the Original Indenture (as supplemented hereby).
- Section 3.04. <u>Effect of Headings</u>. The section headings herein are for convenience only and shall not affect the construction of this First Supplemental Indenture.
- Section 3.05. <u>Counterparts</u>. The parties may sign any number of copies of this First Supplemental Indenture. Each signed copy shall be an original, but all of them shall represent the same agreement.
- Section 3.06. <u>Trustee</u>. The recitals herein contained are made by the Issuer and not by the Trustee, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the validity or sufficiency of this First Supplemental Indenture.