

NAVISTAR INTERNATIONAL CORP

Form 424B5

October 26, 2009

**Table of Contents**

<b>Title of Each Class of Securities to be Registered</b>	<b>Amount to be Registered</b>	<b>Offering Price per Note</b>	<b>Aggregate Offering Price</b>	<b>Amount of Registration Fee(1)</b>
8.25% Senior Notes due 2021	\$1,000,000,000	96.328%	\$963,280,000	\$53,751.02
Guarantees of 8.25% Senior Notes due 2021				(2)

- (1) Calculated in accordance with Rule 457(r) of the Securities Act of 1933, as amended (the Securities Act ), and relates to the registration statement on Form S-3 (File No. 333-162588) filed by the Registrant.
- (2) Pursuant to Rule 457(n) of the Securities Act, no separate registration fee is payable for such guarantees.



**Table of Contents**

Filed Pursuant to Rule 424(b)(5)  
Registration No. 333-162588

**PROSPECTUS SUPPLEMENT**

(To Prospectus dated October 20, 2009)

**\$1,000,000,000**

**Navistar International Corporation**

**8.25% Senior Notes Due 2021**

We are offering \$1,000,000,000 aggregate principal amount of our 8.25% Senior Notes due 2021.

We will pay interest on the notes on May 1 and November 1 of each year, beginning May 1, 2010. The notes will mature on November 1, 2021. At any time on or after November 1, 2014, we may redeem the notes, in whole or in part, at redemption prices described in this prospectus supplement under Description of the Notes Optional redemption. At any time prior to November 1, 2012, we may also redeem up to 35% of the principal amount of the notes using the proceeds of certain public equity offerings at a redemption price of 108.25% of the principal amount of the notes, plus accrued and unpaid interest, if any. In addition, not more than once during each twelve-month period ending on November 1 of 2010, 2011, 2012, 2013 and 2014, we may redeem up to \$50 million in principal amount of the notes in each such twelve-month period, at a redemption price equal to 103% of the principal amount of the notes redeemed, plus accrued and unpaid interest, if any. We may also redeem some or all of the notes at any time prior to November 1, 2014 at a redemption price equal to 100% of the principal amount of the notes plus a make-whole premium, plus accrued and unpaid interest, if any. If we sell certain of our assets or experience specific kinds of changes in control, we must offer to repurchase the notes.

The notes will be our senior unsecured obligations and rank equally with our existing and future unsecured senior indebtedness. The notes will be guaranteed on a senior unsecured basis by our principal operating subsidiary, Navistar, Inc. The notes will be structurally subordinated to all of the liabilities of our subsidiaries that will not guarantee the notes.

Concurrently with this offering of notes, under a separate prospectus supplement, we are offering \$550.0 million in aggregate principal amount of convertible senior subordinated notes due 2014 (plus up to an additional \$75.0 million, if the underwriters exercise in full their over-allotment option). This offering is conditioned upon the completion of the concurrent convertible notes offering such that we have sufficient net proceeds to repay all amounts outstanding under our existing credit facilities. The completion of our concurrent convertible notes offering is not conditioned upon the completion of this offering.

Investing in the notes involves risks that are described in the Risk Factors section beginning on page S-19 of this prospectus supplement.

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

Per Note

Total



## Edgar Filing: NAVISTAR INTERNATIONAL CORP - Form 424B5

Price to Public(1)	96.328%	\$963,280,000
Underwriting Discount	1.650%	\$ 16,500,000
Proceeds to Navistar International Corporation (Before Expenses)	94.678%	\$946,780,000

(1) Plus accrued interest, if any, from October 28, 2009.

The notes will not be listed on any securities exchange. Currently there is no public market for the notes.

The notes will be ready for delivery in book-entry form only through The Depository Trust Company on or about October 28, 2009.

Joint Book-Running Managers

**Credit Suisse**

**BofA Merrill Lynch**

**J.P. Morgan**

**Citi**

**Deutsche Bank Securities**

**Goldman, Sachs & Co.**

Co-Managers

**RBC Capital Markets**

**Scotia Capital**

**UBS Investment Bank**

The date of this prospectus supplement is October 22, 2009.



**Table of Contents**

**TABLE OF CONTENTS**

**Prospectus Supplement**

<u>ABOUT THIS PROSPECTUS SUPPLEMENT</u>	S-i
<u>CERTAIN DEFINED TERMS</u>	S-iii
<u>MARKET AND INDUSTRY DATA</u>	S-iii
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	S-iii
<u>SUMMARY</u>	S-1
<u>RISK FACTORS</u>	S-19
<u>FORWARD-LOOKING STATEMENTS</u>	S-33
<u>USE OF PROCEEDS</u>	S-35
<u>CAPITALIZATION</u>	S-36
<u>MANAGEMENT</u>	S-38
<u>DESCRIPTION OF THE NOTES</u>	S-40
<u>DESCRIPTION OF OTHER FINANCING ARRANGEMENTS</u>	S-89
<u>CERTAIN ARRANGEMENTS WITH NFC</u>	S-95
<u>CERTAIN U.S. FEDERAL INCOME TAX CONSIDERATIONS</u>	S-97
<u>UNDERWRITING</u>	S-102
<u>LEGAL MATTERS</u>	S-105
<u>INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM</u>	S-105
<u>INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE</u>	S-106
<u>UNAUDITED PRO FORMA FINANCIAL STATEMENTS</u>	S-107
<u>SELECTED CONSOLIDATING FINANCIAL DATA</u>	S-112

**Prospectus**

<u>ABOUT THIS PROSPECTUS</u>	i
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	1
<u>INCORPORATION OF CERTAIN INFORMATION BY REFERENCE</u>	1
<u>FORWARD-LOOKING STATEMENTS</u>	2
<u>OUR COMPANY</u>	3
<u>RISK FACTORS</u>	4
<u>USE OF PROCEEDS</u>	4
<u>RATIO OF EARNINGS TO FIXED CHARGES</u>	4
<u>DESCRIPTION OF DEBT SECURITIES AND GUARANTEES</u>	5
<u>DESCRIPTION OF CAPITAL STOCK</u>	21
<u>DESCRIPTION OF DEPOSITARY SHARES</u>	25
<u>DESCRIPTION OF WARRANTS</u>	28
<u>DESCRIPTION OF PURCHASE CONTRACTS</u>	30
<u>DESCRIPTION OF UNITS</u>	31
<u>PLAN OF DISTRIBUTION</u>	32
<u>LEGAL MATTERS</u>	34
<u>EXPERTS</u>	34

**ABOUT THIS PROSPECTUS SUPPLEMENT**



## Edgar Filing: NAVISTAR INTERNATIONAL CORP - Form 424B5

This document consists of two parts. The first part is this prospectus supplement, which describes the specific terms of this offering. The second part is the accompanying prospectus, which describes more general information, some of which may not apply to this offering. You should read both this prospectus supplement and the accompanying prospectus, together with additional information described below under the headings **Where You Can Find More Information** and **Incorporation of Certain Documents by Reference**.

If the description of the offering varies between this prospectus supplement and the accompanying prospectus, you should rely on the information in this prospectus supplement.

Any statement made in this prospectus supplement or in a document incorporated or deemed to be incorporated by reference in this prospectus supplement will be deemed to be modified or superseded for purposes of this prospectus supplement to the extent that a statement contained in this prospectus supplement or in any other subsequently filed document that is also incorporated or deemed to be incorporated by reference in this prospectus supplement modifies or supersedes that statement. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus supplement. See **Incorporation of Certain Documents By Reference**.

S-i



**Table of Contents**

You should rely only on the information contained or incorporated by reference in this prospectus supplement and the accompanying prospectus together with any free writing prospectus used in connection with this offering. We have not, and the underwriters have not, authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not, and the underwriters are not, making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus supplement, the accompanying prospectus and the documents incorporated by reference is accurate only as of the respective dates of those documents in which this information is contained. Our business, financial condition, results of operations and prospects may have changed since those dates.

S-ii



## **Table of Contents**

### **CERTAIN DEFINED TERMS**

Unless otherwise indicated or the context otherwise requires, as used in this prospectus supplement:

the Company, us, we, our and Navistar refer collectively to Navistar International Corporation and its consolidated subsidiaries and their respective predecessors;

NIC refers to Navistar International Corporation, exclusive of its consolidated subsidiaries;

Guarantor refers to Navistar, Inc., a direct, wholly-owned subsidiary of NIC through which it conducts most of its manufacturing operations;

NFC refers to Navistar Financial Corporation, a wholly-owned subsidiary of Navistar, Inc., which, together with NIC's Mexican financial services subsidiaries that provide financial services to its dealers and customers in Mexico, comprise substantially all of our financial services operations;

mid-range diesel engines refers to 160-325 horsepower diesel fuel-powered engines;

North America refers to the United States and Canada; and

OEMs refer to original equipment manufacturers.

### **MARKET AND INDUSTRY DATA**

Market data and other statistical information used throughout this prospectus supplement and in the documents incorporated by reference into this prospectus supplement are based on independent industry publications, government publications, reports by market research firms or other published independent sources. Some data is also based on good faith estimates by our management, which are derived from their review of internal surveys, as well as the independent sources listed above. Although we believe these sources are reliable, we have not independently verified the information and cannot guarantee its accuracy and completeness.

### **WHERE YOU CAN FIND MORE INFORMATION**

Navistar is subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the Exchange Act) and, in accordance therewith, files reports and other information with the Securities and Exchange Commission (SEC). The reports and other information filed by it with the SEC in accordance with the Exchange Act may be inspected and copied at the Public Reference Room maintained by the SEC at Room 1024, Judiciary Plaza, 100 F Street, N.E., Washington, D.C. 20549. Copies of such material or parts thereof may also be accessed electronically by means of the SEC's home page on the Internet at <http://www.sec.gov>. Information on the operations of the Public Reference Room maintained by the SEC may be obtained by calling the SEC at 1-800-SEC-0330.

This prospectus supplement and the accompanying prospectus, which forms a part of the registration statement, do not contain all the information that is included in the registration statement. You will find additional information about us in the registration statement. Any statements made in this prospectus supplement or the accompanying prospectus concerning the provisions of legal documents are not necessarily complete and you should read the documents that are filed as exhibits to the registration statement or otherwise filed with the SEC for a more complete understanding of the document or matter.







**Table of Contents****SUMMARY**

*The following summary is qualified in its entirety by the more detailed information and consolidated financial statements and related notes in the documents incorporated by reference in this prospectus supplement, including our Quarterly Report on Form 10-Q for the quarter ended July 31, 2009 ( Third Quarter 10-Q ) and our 2008 Annual Report on Form 10-K for the fiscal year ended October 31, 2008 ( 2008 Annual Report ). Our fiscal year ends on October 31. Our fiscal years are identified in this prospectus supplement according to the calendar year in which they end. For example, our fiscal year ended October 31, 2008 is referred to as fiscal 2008. All references to a particular year that is not preceded with the word fiscal refers to the calendar year.*

**Our Business****Overview**

We are a leading international manufacturer of *International* brand commercial and military trucks, *MaxxForce* brand diesel engines, *IC Bus* brand school and commercial busses, *Monaco RV* brands of recreational vehicles, *Workhorse Custom Chassis* ( WCC ) brand chassis for motor homes and step vans, and a provider of service parts for diesel engines and all makes of trucks and trailers. Additionally, we are a private-label designer and manufacturer of diesel engines for the pickup truck, van, and sport utility vehicles ( SUV ) markets. Through our financial services operations, we also provide retail, wholesale, and lease financing of our trucks, and financing for our wholesale and retail accounts. For the nine months ended July 31, 2009 and fiscal 2008, our manufacturing operations had net sales of manufactured products to third parties of approximately \$8,069 million and \$14,399 million, respectively, EBITDA (as defined below) of approximately \$516 million and \$697 million, respectively, and net income of approximately \$211 million and \$147 million, respectively. See Supplemental Financial and Operating Data and Note (5) thereto for a reconciliation of net income (loss) to EBITDA for these periods and Selected Consolidating Financial Data.

We market our truck products, parts and services through the industry's largest independent dealer network in North America, specializing in medium and heavy trucks and school buses. As of October 31, 2008, our dealer network was comprised of 820 locations in North America. In addition, as of October 31, 2008, we had 85 dealer locations in Mexico. Our dealer network offers a comprehensive range of service, financing and other support functions to our customers. We also operate seven North American regional parts distribution centers that provide 24-hour availability. We provide certain financial services to our customers and dealers through NFC and our foreign finance subsidiaries.

We operate in four industry segments: Truck, Engine, Parts and Financial Services. For accounting purposes, we also have a Corporate segment, which contains those items that are not included in our four other segments. For ease of reference, we collectively refer to our Truck, Engine and Parts segments and corporate items as our manufacturing operations, and our Financial Services segment as our financial services operations.

Set forth below is certain information regarding our industry segments based on our results for fiscal 2008:

Industry Segment	Fiscal 2008	% of Fiscal 2008 Revenues, Net	Fiscal 2008 Chargeouts(A)
	Revenues (\$ in millions)		
Truck	\$ 10,314	70%	102,200
Engine	2,499	17	345,500
Parts	1,586	11	N/A
Financial Services	325	2	N/A
Total	\$ 14,724	100%	N/A



**Table of Contents**

- (A) Chargeouts are defined by management as trucks or engines, as applicable, that have been invoiced to customers, with units held in dealer inventory primarily representing the principal difference between retail deliveries and chargeouts with respect to trucks.

**Truck Segment**

Our Truck segment manufactures and distributes a full line of class 4 through 8 trucks and buses in the common carrier, private carrier, government/service, leasing, construction, energy/petroleum, military vehicles, and student and commercial transportation markets under the *International* and *IC Bus* brands. This segment also produces chassis for motor homes and commercial step-van vehicles under the *WCC* brand and recreational vehicles under the *Monaco RV* brands. Additionally, we design, produce, and market a brand of light commercial vehicles for the truck market in India under the *Mahindra International* ( Mahindra ) brand through a 49% owned joint venture.

Set forth below is certain information regarding our truck products:

Description	Fiscal 2008 Chargeouts(A)	Estimated Market Share(B)
School Bus	13,500	55%
Medium Trucks	20,300	36
Heavy Trucks	18,800	19
Severe Service Trucks (excl. U.S. Military)	12,800	27
Total U.S. and Canada (excl. U.S. Military)	65,400	29
U.S. Military	7,500	N/A
Expansion Markets(C)	29,300	N/A
Total Truck	102,200	N/A

- (A) Chargeouts are defined by management as trucks that have been invoiced to customers, with units held in dealer inventory primarily representing the principal difference between retail deliveries and chargeouts.
- (B) Based on chargeouts made by us in fiscal 2008.
- (C) Expansion Markets include all markets outside the U.S. and Canada, and include chargeouts of all of our truck products on an aggregate basis.

We recently established a joint venture with Caterpillar Inc. (known as NC<sup>2</sup> Global LLC) for the purpose of developing, designing, testing, manufacturing, assembling, branding, marketing and selling, and distributing and providing product support for, heavy and certain medium duty trucks outside of North America and the Indian subcontinent. In addition to this joint venture, we also entered into a strategic alliance with Caterpillar involving the development, design, manufacture and sale of *Caterpillar*-branded heavy duty severe service trucks in North America.

**Engine Segment**

Our Engine segment designs and manufactures diesel engines across the 50 through 475 horsepower range for use primarily in our class 6 and 7 medium trucks, military vehicles, buses, and selected class 8 heavy truck models, and for sale to OEMs in North and South America for SUVs and pick-ups. This segment also sells engines for industrial and agricultural applications, and supplies engines for WCC, Low-Cab Forward ( LCF ), class 5 vehicles, and began producing our new *MaxxForce* 11 and 13 Big-Bore engines in 2008. Our Engine segment, together with the Ford Motor Company ( Ford ), has made a substantial investment in the Blue Diamond Parts ( BDP ) joint venture, which is responsible for the sale of service parts to Ford.



## **Table of Contents**

### **Parts Segment**

Our Parts segment supports our brands of *International* commercial and military trucks, *IC Bus* school and commercial buses, *WCC* chassis and *MaxxForce* engines by providing customers with proprietary products together with a wide selection of other standard truck, trailer, and engine service parts. We distribute service parts in North America and the rest of the world through the dealer network that supports our Truck and Engine segments.

### **Financial Services Segment**

Our Financial Services segment provides retail, wholesale, and lease financing of products sold by our Truck segment and its dealers within the U.S. and Mexico. Our Financial Services segment also finances wholesale and retail accounts receivable. In addition, the segment will finance sales of new products (including trailers) of other manufacturers, regardless of whether designed or customarily sold for use with our truck products. Our Mexican financial services operations' primary business is providing wholesale, retail, and lease financing to our Mexican operations' dealers and retail customers.

## **Our Business Strategy**

Our long term strategy is focused on three pillars:

### Great Products

Growing our Class 8 tractor line, including an expanded line of *ProStar* and *LoneStar* trucks

Focusing engine research and development in order to have a competitive advantage in meeting the 2010 emissions standards

Introducing our advanced engine technology in new markets

### Competitive Cost Structure

Increasing our seamless integration of *MaxxForce* branded engine lines in our products, including the establishment of our new *MaxxForce* 11 and 13 engines

Reducing materials cost by increasing global sourcing, leveraging scale benefits, locating synergies among strategic partnerships and making product design improvements

### Profitable Growth

Working in cooperation with the U.S. military to provide an extensive line of defense vehicles and product support, including vehicles derived from our existing truck platforms

Minimizing the impact of our traditional markets cyclicalities by growing our Parts segment and expansion markets sales, such as Mexico, international export, military export, recreational vehicle, commercial bus, and commercial step van



Broadening our Engine segment customer base

Entering foreign military sales markets

We believe the two key enablers to the above strategy are as follows:

Leverage the resources we have and those of our partners

Grow in our traditional markets and globally through partnerships and joint ventures to reduce investment, increase speed to market, and reduce risk

Maintain product and plant flexibility to fully utilize our existing facilities, people and technologies

S-3



## **Table of Contents**

Combine global purchasing relationships to achieve scale and sourcing anywhere in the world to contain costs

Control our destiny

Control the development process and associated intellectual property of our products

Leverage key supplier competencies to reduce costs of components and improve quality

Ensure the health and growth of our distribution network to provide our products to key markets

### **Recent Developments**

#### **Proposed SEC Settlement**

As previously disclosed, we are currently subject to an investigation by the SEC with respect to our restatement of our financial results for 2002 and 2003 and the first three quarters of 2004 and the subsequent restatement of our financial results for 2002 through 2004 and for the first three quarters of 2005. The events underlying the subsequent restatement were the subject of an internal investigation completed by a Special Committee of the Board of Directors in December 2007. We have been providing information to and fully cooperating with the SEC on this investigation. To resolve this matter we, along with our chief executive officer, have made offers of settlement to the investigative staff of the SEC and the investigative staff has decided to recommend those offers of settlement to the SEC. As a result of the proposed settlement, in each case without admitting or denying wrongdoing, we would consent to the entry of an administrative settlement and would not pay a civil penalty and our chief executive officer would consent to the entry of an administrative settlement regarding our system of internal accounting controls and return to us a portion of his bonus for 2004. These proposed settlements are subject to mutual agreement on the specific language of the orders and to final approval by the SEC.

#### **Chinese Joint Venture**

On September 28, 2009, we announced that our recently established joint venture with Caterpillar (known as NC<sup>2</sup> Global LLC) had signed a framework agreement with Anhui Jianghuai Automobile Co., Ltd., a Chinese manufacturer of automobiles and trucks, to potentially establish a joint venture in China to develop, manufacture and sell trucks and truck parts primarily in China and certain export markets. The framework agreement contemplates that we will work to finalize the joint venture by mid-2010.

#### **NFC Refinancing Plan**

Our financial services operations rely upon the asset-backed securitization and commercial paper markets as an important part of their funding sources. Pricing and liquidity in these markets were negatively impacted due to market volatility in capital and credit markets. Although the credit markets have stabilized recently and pricing within the asset-backed securitization and commercial paper markets has improved, pricing remains higher than historical norms. Over the last several months, our financial services operations have been able to access credit markets and we continue to believe that we will have sufficient liquidity to fund our financial services operations for the foreseeable future. Nevertheless, we expect that borrowings could be more costly than in the past. In addition, NFC's senior credit facility is currently scheduled to mature in July 2010, and any refinancing of NFC's outstanding borrowings thereunder is likely to be at higher interest rates. In light of the foregoing, we have engaged in discussions with multiple parties regarding a strategic alliance involving NFC that would ensure funding and liquidity, reduce the need for capital, lower our funding costs, expand the products and services we can offer to our customers and reduce overall leverage at NFC. Various types of transactions are currently being considered and we expect our discussion on these strategic arrangements to continue through the end of 2009 with an agreement on terms of any such alliance to be completed by the spring of 2010.



## **Table of Contents**

In addition, NFC has completed and is actively pursuing a number of financing transactions to improve its liquidity position and extend near-term maturities. For example, on August 26, 2009 NFC renewed a \$650 million conduit-based dealer floor plan funding facility for a period of one year. NFC also extended its retail receivables securitization facility (known as TRAC ) in August 2009 and expects to renew the TRAC securitization facility again in November 2009. NFC expects to complete an additional wholesale bank conduit facility and/or a capital markets transaction by the end of 2009. Finally, NFC has begun work with its relationship banks to refinance NFC's bank facilities by the end of 2009, likely at a reduced level. As part of this refinancing, NFC expects to complete a retail securitization or asset sale in excess of \$300 million. Once the above-described strategic alliance is completed, NFC believes that it would most likely not be necessary to refinance its revolving retail warehouse facility for its retail receivables (known as TRIP ) that is currently scheduled to mature on June 15, 2010.

### **Concurrent Convertible Notes Offering**

Concurrently with this offering, under a separate prospectus supplement, dated as of the date hereof, we are offering \$550 million in aggregate principal amount (plus up to an additional \$75 million in aggregate principal amount, if the underwriters exercise in full their over-allotment option) of 3.00% senior subordinated convertible notes due 2014. We estimate that the net proceeds from our concurrent convertible notes offering will be approximately \$532.5 million (or approximately \$605.25 million if the underwriters exercise in full their over-allotment option), after deducting underwriters' discounts and commissions and estimated offering expenses payable by us.

We expect to use a portion of the net proceeds from the concurrent convertible notes offering and the net proceeds from this offering to repay all amounts outstanding under our existing term loan facility and synthetic revolving facility (collectively, the Credit Facilities ), together with any accrued and unpaid interest thereon, and to cash collateralize approximately \$19 million of outstanding letters of credit. The remaining proceeds from the offerings will be used for general corporate purposes, including to fund capital expenditures and strategic initiatives. We entered into convertible notes hedge and warrant transactions in connection with the convertible notes offering.

The foregoing description and other information in this prospectus supplement regarding the concurrent convertible notes offering is included solely for informational purposes. Nothing in this prospectus supplement should be construed as an offer to sell, or a solicitation of an offer to buy, any convertible notes. We cannot assure you that we will complete the concurrent convertible notes offering for the full amount contemplated. This offering is conditioned upon the completion of the concurrent convertible notes offering such that we have sufficient net proceeds to repay all amounts outstanding under the Credit Facilities.

Unless otherwise noted, all references in this prospectus supplement to the expected net proceeds from the concurrent convertible notes offering assumes no exercise by the underwriters of their option to purchase up to an additional \$75 million of convertible notes.

### **Corporate Structure**

NIC is a holding company that conducts its manufacturing operations principally through Navistar, Inc. and, to a lesser extent, certain other wholly-owned foreign and domestic subsidiaries and joint ventures, including its Blue Diamond joint ventures with Ford. We also have majority-owned subsidiaries whose principal business is owning an *International* dealership. These subsidiaries are acquired and disposed of by us from time to time in order to facilitate the transition of *International* dealerships from one independent owner to another. Our manufacturing operations are supported by our financial services operations, including NFC. Our financial services operations provide wholesale, retail and lease financing for sales of our new and used trucks, truck chassis, buses and trailers, service parts and engines and retail and lease financing for sales of such products by *International* dealers to their customers.



**Table of Contents**

Except as noted below, our financial services operations generally fund their operations on an independent basis. Our financial services operations obtain funds to provide financing to our dealers and retail customers from sales of receivables, medium- and long-term debt securities and short- and long-term bank borrowings. As of July 31, 2009, NFC had \$1,023 million of combined funding availability from its bank credit facility and other on- and off-balance sheet funding conduits.

We provide credit support to NFC under NFC's bank credit facility through an agreement whereby Navistar, Inc. has agreed not to permit NFC's consolidated income before income taxes, interest expense and dividends on preferred stock, if any, to be less than 125% of NFC's consolidated interest expense and dividends on preferred stock, if any, for any period of four fiscal quarters immediately preceding the date of measurement. Due to the recent challenging conditions within the U.S. financial markets, Navistar, Inc. made capital contributions to NFC under this arrangement of \$20 million and \$60 million in the nine months ended July 31, 2009 and fiscal 2008, respectively. Navistar, Inc. had not previously made any payments to NFC under this arrangement since 1984. In addition, NIC has guaranteed an aggregate of \$88 million of outstanding borrowings by its Mexican financial services subsidiaries under various bank credit facilities as of July 31, 2009.

In general, we sell to NFC on a regular basis for cash a majority of the wholesale and retail notes and wholesale accounts that we generate in the regular course of our business from the sale of trucks and related equipment to our dealers and retail customers. As a result, such sales to NFC provide us with significant working capital during periods of increasing unit sales volume.



## **Table of Contents**

The following chart summarizes our principal operating structure as discussed above:

NIC's principal operating subsidiary, Navistar, Inc., will unconditionally guarantee on a senior unsecured basis all of NIC's obligations under the notes offered hereby and the related indenture. For the most part, substantially all of NIC's foreign and domestic manufacturing subsidiaries will be considered Restricted Subsidiaries under the indenture governing the notes. For the nine months ended July 31, 2009 and fiscal 2008, NIC and its Restricted Subsidiaries (including Navistar, Inc.) generated 89% and 92%, respectively, of our net sales of manufactured products to third parties and approximately 84% and 90%, respectively, of our manufacturing operations EBITDA. See Supplemental Financial and Operating Data.

NFC, its subsidiaries, and NIC's foreign finance and *International* truck dealership subsidiaries and the Blue Diamond joint venture entities will be considered Unrestricted Subsidiaries under the indenture governing the notes. As a result, these Unrestricted Subsidiaries will not be bound by any of the covenants and operating restrictions contained in the indenture and their outstanding indebtedness will not affect, among other things, the amount of indebtedness that NIC and its Restricted Subsidiaries may incur under the indenture. For more information relating to the Navistar, Inc. guarantee, NFC's financing arrangements and the relationship between Navistar, Inc. and NFC, see Capitalization, Description of the Notes Guarantee, Description of Other Financing Arrangements and Certain Arrangements with NFC.



## Table of Contents

### THE OFFERING

*The following is a brief summary of some of the terms of the notes offered hereby. For a more complete description of the terms of the notes, see Description of the Notes in this prospectus supplement.*

<b>Issuer</b>	Navistar International Corporation.
<b>Notes offered</b>	\$1,000,000,000 aggregate principal amount of 8.25% Senior Notes due 2021.
<b>Maturity date</b>	The notes will mature on November 1, 2021.
<b>Interest</b>	8.25% per annum, payable semi-annually in arrears.
<b>Interest payment dates</b>	May 1 and November 1 of each year, beginning May 1, 2010. Interest will accrue from the issue date of the notes.
<b>Subsidiary guarantees</b>	The notes will be initially guaranteed on a senior unsecured basis, by Navistar, Inc., who we sometimes refer to as the Guarantor. Guarantees of the notes will rank equally in right of payment with any and all of such guarantor's existing and future indebtedness that is not subordinated in right of payment to its guarantee, senior in right of payment to any and all of such guarantor's future indebtedness that is subordinated in right of payment to its guarantee and, to the extent not otherwise secured by assets of such guarantor, effectively subordinated to all existing and future secured indebtedness of such guarantor to the extent of the assets securing such indebtedness.
<b>Ranking</b>	<p>The notes will be NIC's senior unsecured obligations and will rank equally in right of payment with any and all of NIC's existing and future indebtedness that is not subordinated in right of payment to the notes and senior in right of payment to any and all of our future indebtedness that is subordinated in right of payment to the notes, including the convertible notes being offered in a separate offering. The notes will be effectively subordinated to all NIC's existing and future secured indebtedness to the extent of the assets securing such indebtedness and will be structurally junior to all existing and future indebtedness and other liabilities of NIC's subsidiaries that do not guarantee the notes. The notes will be effectively junior to the third party equity interests in our majority-owned dealerships and joint ventures, to the extent of those interests.</p> <p>As of July 31, 2009, after giving effect to the completion of this offering, the concurrent offering of convertible notes and the application of the proceeds therefrom as set forth in Use of Proceeds, and after excluding intercompany balances and intercompany guarantees:</p> <p>NIC and the Guarantor would have had on a combined basis approximately \$1,939 million of outstanding indebtedness, comprised of (i) \$1,000 million of indebtedness represented by the notes (excluding the original issue discount), (ii) approximately</p>







## **Table of Contents**

\$270 million of senior secured indebtedness, which would have ranked ahead of the notes to the extent of the value of assets securing such indebtedness, (iii) approximately \$119 million of indebtedness ranking pari passu with the notes, (iv) \$550 million of indebtedness represented by the convertible notes, which is subordinated in right of payment to the notes, and total assets of approximately \$1,869 million;

NIC's Restricted Subsidiaries (other than the Guarantor) would have had (i) approximately \$13 million of outstanding indebtedness, (ii) approximately \$1,805 million of total liabilities, including trade payables and accrued expenses, and (iii) approximately \$2,781 million of total assets; and

NIC's Unrestricted Subsidiaries would have had (i) approximately \$3,563 million of outstanding indebtedness, of which \$3,401 million was indebtedness of our financial services operations and \$162 million was indebtedness of our majority-owned dealership subsidiaries, (ii) approximately \$4,007 million of total liabilities, of which \$3,627 million were liabilities of our financial services operations and \$191 million were total liabilities of our majority-owned dealership subsidiaries, and (iii) approximately \$4,788 million of assets, of which \$3,940 million constituted assets of our financial services operations and \$364 million constituted assets of our majority-owned dealership subsidiaries.

For the nine months ended July 31, 2009 and fiscal 2008, NIC and its Restricted Subsidiaries (including the Guarantor) generated 89% and 92%, respectively, of our net sales of manufactured products to third parties and approximately 84% and 90%, respectively, of our manufacturing operations EBITDA. See Supplemental Financial and Operating Data.

### **Optional redemption**

At any time on or after November 1, 2014, we may redeem the notes, in whole or in part, at the redemption prices listed in Description of the Notes Optional Redemption. At any time prior to November 1, 2012, we may redeem up to 35% of the aggregate principal amount of the notes with the net cash proceeds from certain public equity offerings at the redemption price described in Description of the Notes Optional redemption. In addition, not more than once during each twelve-month period ending on November 1 of 2010, 2011, 2012, 2013 and 2014, we may redeem up to \$50 million in principal amount of the notes in each such twelve-month period, at a redemption price equal to 103% of the principal amount of the notes redeemed, plus accrued and unpaid interest, if any. We may also redeem some or all of the notes at any time prior to November 1, 2014 at a redemption price equal to 100% of the principal amount of the notes plus a make-whole premium, plus accrued and unpaid interest, if any.



## **Table of Contents**

### **Change of control**

Upon occurrence of a change of control, as described under Description of the Notes Certain covenants Change of Control, we will be required to commence and consummate an offer to purchase all of the notes then outstanding at a purchase price equal to 101% of their principal amount, plus accrued interest (if any) to the payment date (subject to the right of the holders of record on the relevant record date to receive interest due on the relevant interest payment date). We may not have sufficient funds available at the time of a change of control to repurchase the notes. See Risk Factors Risks Related to the Notes We may be unable to repurchase notes in the event of a change of control as required by the indenture.

### **Certain covenants**

The indenture governing the notes will limit our ability and the ability of our restricted subsidiaries to, among other things:

make restricted payments;

incur additional debt and issue preferred or disqualified stock;

create liens;

create or permit to exist restrictions on our ability or the ability of our restricted subsidiaries to make certain payments or distributions;

engage in sale-leaseback transactions;

engage in mergers or consolidations or transfer all or substantially all of our assets;

designate restricted and unrestricted subsidiaries;

make certain dispositions and transfers of assets;

place limitations on the ability of our restricted subsidiaries to make distributions;

enter into transactions with affiliates; and

guarantee indebtedness.

These covenants are subject to a number of important exceptions and qualifications, which are described under Description of the Notes Certain covenants.

If the notes are assigned an investment grade rating by Standard & Poor's Rating Services and Moody's Investors Service, Inc. and no default has occurred or is continuing, certain covenants will be suspended. If either rating on the notes should subsequently decline to below investment grade, the suspended covenants will be reinstated.



**Use of proceeds**

We expect to use a portion of the net proceeds from this offering and the concurrent convertible notes offering, to repay all amounts outstanding under our Credit Facilities, together with any accrued and unpaid interest thereon, and to cash collateralize approximately \$19 million of outstanding letters of credit. The remaining proceeds from these offerings will be used for general corporate purposes, including to fund capital expenditures and strategic initiatives.

S-10



## **Table of Contents**

This offering is conditioned upon the completion of the concurrent convertible notes offering such that we have sufficient net proceeds to repay all amounts outstanding under the Credit Facilities. See **Use of Proceeds**.

### **Absence of public markets for the notes**

The notes are a new issue of securities for which there is no market. Although the underwriters have informed us that they intend to make a market in the notes, they are not obligated to do so, and any such market making may be discontinued at any time without notice. We do not intend to apply for listing of the notes on any national securities exchange or for quotation of the notes on any automated dealer quotation system. We cannot assure you that there will be a liquid trading market for the notes, or that an active public market for the notes will develop. If an active public trading market does not develop, the market price and liquidity of the notes may be adversely affected.

### **Original issue discount**

The notes will be issued with more than a *de minimis* amount of original issue discount ( **OID** ) for U.S. federal income tax purposes. U.S. Holders (as defined in **Certain U.S. Federal Income Tax Considerations** ) will be required to include such OID in gross income on a constant yield basis for U.S. federal income tax purposes in advance of the receipt of cash payments to which such income is attributable, regardless of such U.S. Holders' method of accounting for U.S. federal income tax purposes. See **Certain U.S. Federal Income Tax Considerations**.

### **RISK FACTORS**

Investment in the notes involves risks. You should carefully consider the information under **Risk Factors** beginning on page S-19 and all other information included or incorporated by reference in this prospectus supplement and accompanying prospectus before investing in the notes.

### **ADDITIONAL INFORMATION**

NIC was incorporated under the laws of the State of Delaware in 1993 and is the successor to the truck and engine business of International Harvester Company, which business began in 1907. Our principal executive offices are located at 4201 Winfield Road, Warrenville, Illinois 60555, and our telephone number is (630) 753-5000. Our Web site is [www.navistar.com](http://www.navistar.com). Our Web site, and the information contained therein, are expressly not included in or as part of this prospectus supplement or the accompanying prospectus.

The marks *International*, *MaxxForce*, *Workhorse*, *Mondéo*, *ProStar* and *LoneStar* and our logo are registered United States trademarks of Navistar and the mark *IC Bus* is a trademark of Navistar. All other trademarks and trade names appearing in this prospectus supplement and accompanying prospectus are the property of their respective owners.



**Table of Contents****SUMMARY CONSOLIDATED FINANCIAL DATA****Navistar International Corporation and consolidated subsidiaries**

The following consolidated financial information of Navistar for each of the three years ended October 31, 2008, 2007 and 2006 has been derived from our audited consolidated financial statements and notes thereto. The selected historical consolidated financial information for the nine months ended July 31, 2009 and 2008 was derived from our unaudited condensed consolidated financial statements, which in management's opinion, reflect all adjustments, consisting of only normal and recurring adjustments, necessary for a fair presentation of such information. Results for the interim periods are not necessarily indicative of the results that might be expected for any other interim period or for an entire year. This information should be read in conjunction with Selected Financial Data, Management's Discussion and Analysis of Financial Condition and Results of Operations and our consolidated financial statements and notes thereto for fiscal 2008, each of which is in our 2008 Annual Report and with Management's Discussion and Analysis of Financial Condition and Results of Operations and our unaudited condensed consolidated financial statements and notes thereto for the nine months ended July 31, 2009 and 2008, each of which is in our Third Quarter 10-Q.

	<div> <div>Nine Months</div> <div>Ended July 31,</div> <div>20092008</div> </div>		<div> <div>Fiscal Year</div> <div>Ended October 31,</div> <div>200820072006</div> </div> <div>(in millions)</div>		
Selected Income Statement Data:					
Sales and revenues:					
Sales of manufactured products, net	\$ 8,069	\$ 10,589	\$ 14,399	\$ 11,910	\$ 13,878
Finance revenues(1)	215	265	325	385	322
Sales and revenues, net	8,284	10,854	14,724	12,295	14,200
Costs and expenses:					
Costs of products sold	6,737	8,715	11,930	10,131	11,703
Impairment of property and equipment(2)			358		
Restructuring charges(3)	55				
Selling, general and administrative expenses	985	1,071	1,453	1,461	1,332
Engineering and product development costs	339	289	380	382	453
Interest expense	206	357	469	502	431
Other (income) expense, net	(232)	(11)	14	(34)	(15)
Total costs and expenses	8,090	10,421	14,604	12,442	13,904
Equity in income of non-consolidated affiliates(4)	56	63	71	74	99
Income (loss) from before income tax, minority interest and extraordinary gain	250	496	191	(73)	395
Income tax expense	32	19	57	47	94
Income (loss) before minority interest and extraordinary gain	218	477	134	(120)	301
Minority interest in net income of subsidiaries, net of tax	(7)				
Income (loss) before extraordinary gain	211	477	134	(120)	301
Extraordinary gain, net of tax	23				
Net income (loss)	\$ 234	\$ 477	\$ 134	\$ (120)	\$ 301







**Table of Contents**

	July 31, 2009	October 31, 2008
	(in millions)	
<b>Selected Balance Sheet Data:</b>		
Total assets	\$ 9,384	\$ 10,390
Long-term debt:		
Manufacturing operations	1,589	1,639
Financial services operations	1,555	3,770
Total long-term debt	3,144	5,409
Current maturities of long-term debt(5)	2,063	665
Total debt	5,207	6,074
Total stockholders' deficit	\$ (1,352)	\$ (1,495)

	Nine Months Ended July 31,		Fiscal Year Ended October 31,		
	2009	2008	2008	2007	2006
	(in millions, except ratio, employee, market share and unit data)				
<b>Selected Financial Data:</b>					
Capital expenditures(6)	\$ 120	\$ 145	\$ 176	\$ 312	\$ 230
Depreciation and amortization(6)	225	256	344	317	321
Interest expense	206	357	469	502	431
Cash provided by (used in):					
Operating activities	899	678	1,120	262	(287)
Investing activities	(147)	(426)	(333)	157	(456)
Financing activities	(878)	(343)	(676)	(806)	1,056
Ratio of earnings to fixed charges(7)	2.10x	2.31x	1.38x		1.86x
<b>Operating Data:</b>					
Number of worldwide employees (at end of period)	N/A	N/A	17,800	17,200	18,200
Manufacturing gross margin(8)	17%	18%	17%	15%	16%
North American retail truck deliveries, including U.S. military	49,300	53,300	75,700	86,100	122,800
North American market share(9)	36%	29%	31%	27%	27%
Unit shipments worldwide:					
Trucks and school buses	53,100	73,500	102,200	113,600	155,400
OEM engines	178,400	267,600	345,500	404,700	519,700

(1) Includes revenues of NFC as well as NIC's other financial services subsidiaries.

(2) In fiscal 2008, our Engine segment recognized \$395 million of charges for impairments of property and equipment and related charges associated with its VEE Business Unit, which is comprised of the following asset groups: the Huntsville Engine Plant ( HEP ), the Indianapolis Engine Plant ( IEP ) and the Indianapolis Casting Corporation foundry ( ICC ). In the fourth quarter of fiscal 2008, our Engine segment recognized \$358 million of charges for impairments of property and equipment related to asset groups in the VEE Business Unit. In addition, the VEE Business Unit recorded \$27 million of other charges in the fourth quarter of fiscal 2008 related to the significant reduction in demand from Ford. These charges included \$5 million in personnel costs relating to employee layoffs at IEP, which were recorded in *Costs of products sold*, and \$5 million of net charges reflecting pension and other postretirement benefit curtailments and contractual termination benefits, which were recorded in *Selling, general and administrative expenses*. At IEP and ICC, an aggregate of \$7 million of inventory was written down to market value as a charge to *Costs of products sold*. Finally, other charges of \$10 million were recorded. In the third quarter of fiscal 2008, the VEE Business Unit recorded \$10 million of charges for personnel costs relating to employee layoffs at IEP, which were recorded in *Costs of products sold*.



S-13



## **Table of Contents**

- (3) In the first quarter of fiscal 2009, we reached an agreement with Ford to restructure our ongoing business relationship and settle all existing litigation between us and Ford (the "Ford Settlement"). In connection with the Ford Settlement, we received a \$200 million cash payment from Ford, which was recorded as a gain in *Other (income) expense, net*, and we reversed our previously recorded warranty liability of \$75 million, which was recorded as a reduction of *Costs of products sold*. With the changes in Ford's strategy, we announced our intentions to close IEP and ICC and our Engine segment recognized \$58 million of restructuring charges and \$27 million of other related charges. The restructuring charges consisted of \$21 million in personnel costs for employee termination and related benefits, \$16 million of charges for pension and other postretirement benefit contractual termination benefits and a pension curtailment, and \$21 million of other contractual costs. The other related charges consisted of \$21 million related to inventory valuation and low volume adjustments in *Costs of products sold* and \$6 million of indirect employee costs in *Selling, general and administrative expenses*. We expect the majority of the restructuring and other costs, excluding pension and other postretirement related costs, will be paid in fiscal 2010. Due to the loss of the business with Ford, we continue to resolve commercial disputes with certain suppliers and to evaluate alternatives to improve our ongoing cost structure. Such actions may subject us to additional discrete charges in future periods, which could be material.
- (4) Collectively represents a 49% ownership interest in our BDP joint venture, a 51% ownership interest in Blue Diamond Truck ("BDT") joint venture and twelve other active, partially-owned affiliates. We do not control these affiliates, but have the ability to exercise significant influence over their operating and financial policies. Our ownership percentages in the twelve other affiliates range from 10% to 50%. In connection with the Ford Settlement and effective June 1, 2009, we increased our equity interest in the BDP joint venture from 49% to 75% and increased our equity interest in the BDT joint venture from 51% to 75%, and since that date we have accounted for BDP and BDT as consolidated subsidiaries with their respective results of operations being consolidated with our operations. Since June 1, 2009, our share of the results of the BDP and BDT joint ventures are no longer included in *Equity in income of non-consolidated affiliates*. We recognized a gain of \$23 million in *Other income* in connection with our increased equity interests in the BDP joint venture in the nine months ended July 31, 2009.
- (5) Current maturities of long-term debt as of July 31, 2009 was comprised of \$217 million of indebtedness of our manufacturing operations and \$1,846 million of indebtedness of our financial services operations.
- (6) Exclusive of equipment that we have leased to others.
- (7) The ratio of earnings to fixed charges is determined by dividing the sum of pre-tax income from continuing operations, interest expense, amortization of debt issue costs and the portion of rental expense deemed representative of an interest factor, less minority interest, by the sum of capitalized interest, interest expense, and debt amortization expense. For fiscal 2007, our earnings were insufficient to cover fixed charges by approximately \$80 million. On a pro forma basis giving effect to the sale of the notes in the offering and the concurrent offering of the convertible notes and the application of the net proceeds therefrom as set forth under "Use of Proceeds," our ratio of earnings to fixed charges for the nine months ended July 31, 2009 and fiscal 2008 would have been 1.87x and 1.38x, respectively.
- (8) Manufacturing gross margin is calculated by subtracting *Costs of products sold* from *Sales of manufactured products, net* and dividing that amount by *Sales of manufactured products, net*.
- (9) Based on retail deliveries of medium trucks (Classes 6-7), including school buses, and heavy trucks (Class 8) in the United States and Canada by us and our dealers, compared to the industry total in the United States and Canada of retail deliveries.



**Table of Contents****SUPPLEMENTAL FINANCIAL AND OPERATING DATA****Navistar International Corporation (with financial services operations on a pre-tax equity basis)**

The following tables set forth certain supplemental financial and operating data of our manufacturing operations with our financial services operations set forth on a pre-tax equity basis of accounting. Our manufacturing operations, for this purpose, include our Truck, Engine and Parts segments and Corporate items, which includes certain eliminations. We have included this supplemental financial and operating data to assist prospective investors in evaluating an investment in the notes. This information does not represent our financial statements prepared in accordance with generally accepted accounting principles and should not be considered in isolation or as a substitute for our financial data that has been prepared in accordance with generally accepted accounting principles that has been included or incorporated by reference in the prospectus supplement. We have reconciled these non-GAAP financial measures to our GAAP condensed consolidated financial statements by adding the results of our financial services operations, making the necessary adjustments to eliminate certain intercompany transactions between our manufacturing operations and financial services operations and adjusting for certain reclassifications. These reconciliations are included elsewhere in this prospectus supplement under the heading **Selected Consolidating Financial Data**. Certain of our subsidiaries in our manufacturing operations have debt outstanding with our financial services operations.

The information set forth below should be read in conjunction with **Selected Financial Data**, **Management's Discussion and Analysis of Results of Operations and Financial Condition** and our consolidated financial statements and the notes thereto for fiscal 2008, each of which is in our 2008 Annual Report, **Management's Discussion and Analysis of Results of Operations and Financial Condition** and our condensed consolidated financial statements and notes thereto for the nine months ended July 31, 2009 and 2008, each of which is in our Third Quarter 10-Q, and **Unaudited Pro Forma Financial Statements** included elsewhere in this prospectus supplement.

Manufacturing Operations	(Unaudited)				
	Nine Months		Fiscal Year		
	Ended July 31,	2008	Ended October 31,	2007	2006
	2009	2008	2008	2007	2006
	(in millions)				
<b>Selected Condensed Statement of Income Data:</b>					
Sales of manufactured products, net	\$ 8,069	\$ 10,589	\$ 14,399	\$ 11,910	\$ 13,878
Costs of products sold	6,737	8,715	11,930	10,131	11,703
Impairment of property and equipment(1)			358		
Restructuring charges(2)	55				
Selling, general and administrative expenses	886	965	1,309	1,352	1,234
Engineering and product development costs	339	289	380	382	453
Interest expense	77	115	156	196	192
Other (income) expense, net	(182)	65	124	124	147
Total costs and expenses	7,912	10,149	14,257	12,185	13,729
Equity in income of non-consolidated affiliates(3)	56	63	71	74	99
Income (loss) before income taxes, minority interest, extraordinary gain and equity income from financial services operations	213	503	213	(201)	248
Equity income (loss) from financial services operations	37	(7)	(22)	128	147
Income (loss) before income taxes, minority interest and extraordinary gain	250	496	191	(73)	395
Income tax expense	32	19	57	47	94
Income (loss) before minority interest and extraordinary gain	218	477	134	(120)	301
Minority interest in net income of subsidiaries, net of tax	(7)				
Income (loss) before extraordinary gain	211	477	134	(120)	301
Extraordinary gain, net of tax	23				
Net income (loss)	\$ 234	\$ 477	\$ 134	\$ (120)	\$ 301



S-15



**Table of Contents**

Manufacturing Operations	At July 31, 2009	
	Actual	As Adjusted(4) (in millions)
<b>Selected Condensed Balance Sheet Data:</b>		
Cash and cash equivalents	\$ 751	\$ 841
Property and equipment, net	1,398	1,398
Total assets (excludes investments in and advances to financial services operations)	5,455	5,545
Postretirement benefits liabilities	2,081	2,081
Total debt	1,805	1,988

Manufacturing Operations	Nine Months Ended July 31,		Fiscal Year Ended October 31,		
	2009	2008	2008	2007	2006
(in millions)					
<b>Other Financial Data:</b>					
EBITDA(5)	\$ 516	\$ 858	\$ 697	\$ 300	\$ 746
Capital expenditures(6)	118	139	168	309	228
Depreciation and amortization(6)	210	240	328	305	306
Cash provided by (used in):					
Operating activities	129	93	429	169	496
Investing activities	(190)	(160)	(216)	(70)	(351)
Financing activities	(51)	(94)	(133)	(480)	140
<b>Selected Pro Forma Data(7):</b>					
Interest expense	\$ 104	\$ 116	\$ 157		
Total debt (at end of period)	1,988	2,067	2,017		
Net debt (at end of period)(8)	1,147	1,419	1,152		

(1) See note (2) under Summary Consolidated Financial Data.

(2) See note (3) under Summary Consolidated Financial Data.

(3) See note (4) under Summary Consolidated Financial Data.

(4) The as adjusted balance sheet data as of July 31, 2009 gives effect to the sale of the notes in the offering and the concurrent offering of convertible notes and the application of the net proceeds therefrom as set forth under Use of Proceeds as if these transactions were completed on July 31, 2009. See Use of Proceeds and Capitalization. In connection with our concurrent convertible notes offering, we entered into convertible note hedge and warrant transactions. We used existing cash to pay the costs of such transactions. We have reduced the amount of cash we would have had as of July 31, 2009 on an as adjusted basis to reflect the cost of these transactions.

(5) EBITDA for our manufacturing operations is defined as our consolidated net income (loss) from continuing operations minus the net income (loss) from our financial services operations plus interest expense, income taxes and depreciation and amortization. EBITDA is a measure commonly used and is presented to aid in developing an understanding of the ability of our operations to generate cash for debt service and taxes, as well as cash for investments in working capital, capital expenditures and other liquidity needs. This information is presented as a supplement to the other data provided because it provides information which we believe is useful to investors for additional analysis. EBITDA should not be considered in isolation or as a substitute for net income, cash flows from operating activities or other consolidated operations or cash flow statement data prepared in accordance with generally accepted accounting principles or as a measure of our profitability or liquidity as determined in accordance with generally accepted accounting principles.



**Table of Contents**

Further, EBITDA, as we calculate it, may not be comparable to calculations of similarly-titled measures by other companies. The following table provides a reconciliation of net income (loss) from continuing operations to EBITDA.

Manufacturing Operations	Nine Months Ended July 31,		Fiscal Year Ended October 31,		
	2009	2008	2008	2007	2006
	(in millions)				
Net income (loss)	\$ 234	\$ 477	\$ 134	\$ (120)	\$ 301
Financial services operations net income (loss)	23	(3)	(13)	83	95
Manufacturing operations net income (loss)	211	480	147	(203)	206
Interest expense	77	115	156	196	192
Income tax expense	18	23	66	2	42
Depreciation and amortization(a)	210	240	328	305	306
EBITDA	\$ 516	\$ 858	\$ 697	\$ 300	\$ 746

(a) Exclusive of depreciation of equipment that we have leased to others.

Set forth below is a summary of certain other items that are included in the calculation of EBITDA:

Supplemental Adjustments:	Nine Months Ended July 31,		Fiscal Year Ended October 31,		
	2009	2008	2008	2007	2006
	(in millions)				
Impairment of property and equipment(a)	\$	\$ 10	\$ 395	\$	\$
Loss on early extinguishment of indebtedness(b)				31	23
Certain professional fees(c)		111	129	198	35
Restructuring charges(d)	55				
Inventory valuation / low volume adjustments(e)	68				
Non-recurring gains related to:					
Monaco Coach acquisition(f)	(23)				
Increased equity interest in BDP joint venture(g)	(23)				
Warranty liability reversal(h)	(75)				
Ford Settlement payment(i)	(200)				
Total supplemental adjustments	\$ (198)	\$ 121	\$ 524	\$ 229	\$ 58

- (a) See Note (2) under Summary Consolidated Financial Data.
- (b) Represents the write-off of deferred financing fees and premiums paid in connection with repayment of our previously outstanding debt securities.
- (c) We incurred elevated levels of professional fees in each of fiscal 2008, fiscal 2007 and fiscal 2006 related to assistance in preparing our consolidated financial statements. The incremental professional fees represent the actual fees incurred for each respective period reduced by our current period fees through July 31, 2009 of \$27 million (annualized as appropriate). We believe the fees incurred through July 31, 2009 approximate our near-term professional fee levels. We have substantially reduced our professional fees since completing all of our previously delayed periodic reports, and expect further reductions in the future as we continue to remediate material weaknesses.
- (d) A detailed discussion of the restructuring charges recorded in the nine months ended July 31, 2009 is set forth in Management's Discussion and Analysis of Results of Operations and Financial Condition and Note 2, *Ford settlement and related charges*, to our



Edgar Filing: NAVISTAR INTERNATIONAL CORP - Form 424B5

condensed consolidated financial statements for the nine months ended July 31, 2009, each of which is in our Third Quarter 10-Q.

S-17



---

**Table of Contents**

- (e) Related to the Ford Settlement, our Engine segment recognized a total of \$44 million of inventory valuation and low volume adjustments in *Cost of products sold* and a total of \$24 million of inventory valuation and low volume adjustments in *Other income, net*, for the nine months ended July 31, 2009.
  - (f) We completed the purchase of certain assets of the recreational vehicle business of Monaco Coach Corporation in the third quarter of fiscal 2009. We recognized an extraordinary gain of \$23 million in the first nine months ended July 31, 2009 due to the fair market value of the assets acquired in the Monaco acquisition exceeding the purchase price.
  - (g) We recognized a gain of \$23 million in *Other income, net* in connection with the increased equity interest in the BDP joint venture.
  - (h) We reversed a previously recorded warranty liability of \$75 million, which was recorded as a reduction of *Costs of products sold*, in connection with the Ford Settlement.
  - (i) We recorded a gain of \$200 million in *Other (income) expense, net* during the nine months ended July 31, 2009, related to the cash settlement payment we received from Ford in connection with the Ford Settlement.
- 
- (6) Exclusive of equipment that we have leased to others.
  - (7) The selected pro forma data gives effect to the sale of the notes in the offering and the concurrent offering of the convertible notes and the application of the net proceeds therefrom as set forth under *Use of Proceeds* as if these transactions were implemented at the beginning of the earliest period presented. We believe that the assumptions used provide a reasonable basis for presenting the significant effects directly attributable to these transactions; however, the pro forma data does not purport to represent what our results of operations would actually have been if such transactions had in fact occurred on such dates or to project results for any future period. See *Use of Proceeds* and *Unaudited Pro Forma Financial Statements*.
  - (8) *Net debt*, a non-GAAP measure, is calculated by subtracting *Cash and cash equivalents* from *Total debt* for each period presented.



## **Table of Contents**

### **RISK FACTORS**

*You should read and consider carefully each of the following factors, as well as the other information contained in or incorporated by reference into this prospectus supplement, before making a decision to invest in the notes.*

#### **Risks Relating to Navistar and its Markets**

##### **The markets in which we compete are subject to considerable cyclicity.**

Our ability to be profitable depends in part on the varying conditions in the truck, bus, mid-range diesel engine, and service parts markets, which are subject to cycles in the overall business environment and are particularly sensitive to the industrial sector, which generates a significant portion of the freight tonnage hauled. Truck and engine demand is also dependent on general economic conditions, interest rate levels and fuel costs, among other external factors.

Our Truck, Engine and Parts segments are heavily influenced by the overall performance of the medium and heavy truck retail markets within the U.S. and Canada (our traditional market), which consists of vehicles in weight classes 6 through 8, including school buses. The traditional market is typically cyclical in nature and cycles can span several years. The current worldwide economic recession has adversely impacted the industry and the market demand for our products remains stagnant with significantly lower volumes in fiscal 2009 than previously expected. Every part of our business, excluding sales to the U.S. military, has been adversely affected by the global recession during fiscal 2008 and the nine months ended July 31, 2009. These trends have persisted through the date of this prospectus supplement and will be reflected in our results of operations for the fourth quarter and full fiscal 2009. The traditional truck industry retail deliveries were 244,100, 319,000 and 454,700 in fiscal 2008, fiscal 2007 and fiscal 2006, respectively. We expect fiscal 2009 and fiscal 2010 industry volumes to be in the range of 165,000 to 185,000 units, and 175,000 to 215,000 units, respectively.

##### **Our technology solution to meet U.S. federal 2010 emissions requirements may not be successful or may be more costly than planned.**

Truck and engine manufacturers continue to face significant governmental regulation of their products, especially in the areas of environment and safety. In that regard, we have incurred, and will continue to incur, significant research, development, and tooling costs to design and produce our engine product lines to meet United States Environmental Protection Agency and California Air Resources Board ( CARB ) emission requirements. The new on-highway heavy duty emissions standards that came into effect in the U.S. in the 2007 model year reduced allowable particulate matter and allowable nitrogen oxide. This change in emissions standards resulted in a significant increase in the cost of our products to meet these emissions levels. An emissions cap as part of the phase-in process for the heavy duty engines comes into effect for the model year 2010. In addition, emission regulations will begin the initial phase-in in 2010 with respect to the on-board diagnostics for truck engines and are a part of our product plans.

Most other truck and engine manufacturers have chosen urea-based selective catalytic reduction ( SCR ) systems to address the 2010 emission standards. We intend to address the 2010 emissions requirements for our core applications through advances in fuel systems, air management, combustion and engine controls and continue to explore other cost effective alternative solutions for meeting these emissions standards. Our technology solution to meet U.S. federal 2010 emissions requirements may not be successful or may be more costly than planned.

##### **We may be subject to greenhouse gas regulations.**

Additional changes to on-highway emissions or performance standards as well as complying with additional environmental and safety requirements would add to the cost of our products and increase the capital-intensive nature of our business. In that regard, we have been closely monitoring regulatory proposals intended to address



## **Table of Contents**

greenhouse gas emissions. These regulatory proposals, if adopted, may have an impact on both our facilities and our products. The scope of the impact of any greenhouse gas emission regulatory program is still uncertain and we are, therefore, unable to predict the impact to our operations.

### **We operate in the highly competitive North American truck market.**

The North American truck market in which we operate is highly competitive. Our major U.S. domestic competitors include: PACCAR Inc. ( PACCAR ), Ford and General Motors Corporation. The competing foreign-controlled domestic manufacturers include: Freightliner and Western Star (both subsidiaries of Daimler-Benz AG ( Mercedes Benz )), and Volvo and Mack (both subsidiaries of Volvo Global Trucks). The major U.S. military vehicle competitors include: BAE Systems, Force Protection Inc, General Dynamics Land Systems, General Purpose Vehicles, Oshkosh Truck, and Protected Vehicles Incorporated. In addition, smaller, foreign-controlled market participants such as Isuzu Motors America, Inc., Nissan North America, Inc., Hino (a subsidiary of Toyota Motor Corporation), and Mitsubishi Motors North America, Inc. are competing in the U.S. and Canadian markets with primarily imported products. In Mexico, the major domestic competitors are Kenmex (a subsidiary of PACCAR) and Mercedes Benz.

The intensity of this competition, which is expected to continue, results in price discounting and margin pressures throughout the industry and adversely affects our ability to increase or maintain vehicle prices. Many of our competitors have greater financial resources, which may place us at a competitive disadvantage in responding to substantial industry changes, such as changes in governmental regulations that require major additional capital expenditures. In addition, certain of our competitors may have lower overall labor costs.

### **Our business may be adversely impacted by work stoppages and other labor relations matters.**

We are subject to risk of work stoppages and other labor relations matters because a significant portion of our workforce is unionized. As of July 31, 2009, approximately 62% of our hourly workers and 9% of our salaried workers are represented by labor unions and are covered by collective bargaining agreements. Many of these agreements include provisions that limit our ability to realize cost savings from restructuring initiatives such as plant closings and reductions in workforce. Our current collective bargaining agreement with the UAW will expire in October 2010. Any UAW strikes, threats of strikes, or other resistance in connection with the negotiation of a new agreement or otherwise could materially adversely affect our business as well as impair our ability to implement further measures to reduce structural costs and improve production efficiencies. A lengthy strike by the UAW that involves a significant portion of our manufacturing facilities could have a material adverse effect on our financial condition, results of operations, and cash flows. For additional information regarding our collective bargaining agreements, see Item 1, Business Employees, in our 2008 Annual Report, which is incorporated by reference in this prospectus supplement.

### **Current credit market conditions may impair our access to sufficient capital to engage in financing activities.**

The U.S. and global economies are currently undergoing a period of economic uncertainty, and the related financial markets are experiencing unprecedented volatility. The current financial turmoil affecting the banking system and financial markets and the possibility that financial institutions may consolidate or go out of business have resulted in a tightening in the credit markets, a low level of liquidity in many financial markets, and extreme volatility in fixed income, credit, currency, and equity markets. Our financial services operations supports our manufacturing operations by providing financing to a significant portion of our dealers and retail customers. Our financial services operations has traditionally obtained the funds to provide such financing from sales of receivables, medium and long-term debt, and equity capital and from short and long-term bank borrowings. In light of the challenging conditions within the financial markets, NIC has had to make loans to the financial services operations in a number of circumstances in order to provide short term liquidity. In addition, Navistar, Inc. made capital contributions to NFC of \$20 million and \$60 million, respectively, during the nine months



## **Table of Contents**

ended July 31, 2009 and fiscal 2008, in order to enable NFC to remain in compliance with a covenant in its bank credit facility that requires NFC's consolidated income before income taxes, interest expense and dividends on preferred stock, if any, not to be less than 125% of NFC's consolidated interest expense and dividends on preferred stock, if any, for any period of four fiscal quarters immediately preceding the date of measurement. NIC had also guaranteed an aggregate of \$88 million of outstanding borrowings by its Mexican financial services subsidiaries as of July 31, 2009. If cash provided by operations, bank borrowings, continued sales and securitizations of receivables, and the placement of term debt does not provide the necessary liquidity, our financial services operations may restrict its financing of our products both at the wholesale and retail level, which may impair our ability to sell our products to customers who require financing and may have a significant negative effect on our liquidity and results of operations.

### **Our liquidity position may be adversely affected by a continued downturn in our industry and the upcoming maturity of the NFC senior credit facility.**

Any downturn in our industry can adversely affect our operating results. In the event that industry conditions remain weak for any significant period of time, our liquidity position may be adversely affected, which may limit our ability to complete product development programs, capital expenditure programs, or other strategic initiatives at currently anticipated levels. In addition, NFC's senior credit facility is currently scheduled to mature in July 2010, and, as a result, is currently classified as a current obligation for accounting purposes. As of July 31, 2009, NFC had aggregate borrowings of approximately \$1.0 billion under such credit facility. In light of the downturn in our industry and credit market conditions, we may be unable to refinance that facility on favorable terms or at all. If we are unable to refinance such facility, we will need to repay such indebtedness with cash generated from operations, which may create substantial liquidity challenges and there is no assurance that we will have sufficient cash flow or capital resources to meet such maturity. Failure to pay such credit facility when due will be an event of default under the notes offered hereby.

### **The loss of business from Ford could have a negative impact on our business, financial condition, and results of operations.**

Ford accounted for approximately 7% of our revenues for the nine months ended July 31, 2009, and approximately 7%, 14% and 12% of our revenues for fiscal 2008, fiscal 2007 and fiscal 2006, respectively. In addition, Ford accounted for approximately 39%, 44%, 58% and 61% of our diesel engine unit volume (including intercompany transactions) for the nine months ended July 31, 2009, fiscal 2008, fiscal 2007 and fiscal 2006, respectively, primarily relating to the sale of our V-8 diesel engines.

On January 13, 2009, we announced the Ford Settlement. As part of the Ford Settlement, we will end our current diesel engine supply agreement with Ford effective December 31, 2009. We will, however, continue our diesel engine supply arrangement with Ford in South America. The loss of business from Ford may have a negative impact on our business, financial condition, and results of operations and may potentially subject us to other costs that may be material. See Note (3) under Summary Consolidated Financial Data for additional information regarding the Ford Settlement and its accounting treatment.

### **We may not achieve all of the expected benefits from our current business strategies and initiatives.**

We have recently completed acquisitions and joint ventures and announced our intention to form a number of additional joint ventures and strategic alliances. We cannot assure you that our previous or future acquisitions, joint ventures or our strategic alliances will be successful or will generate the expected benefits. In addition, we cannot assure you we will not have disputes arise with our joint venture partners and that such disputes will not lead to litigation or otherwise have a material adverse effect on the joint venture or our relationship with our joint venture partners. Failure to successfully manage and integrate these and potential future acquisitions, joint ventures and strategic alliances could materially harm our financial condition, results of operations and cash flows.



## **Table of Contents**

We are currently in discussions with multiple parties regarding a strategic alliance involving NFC. At this time, we cannot assure you that we will reach a definitive agreement with respect to any such strategic alliance or, if we do reach a definitive agreement, what the ultimate terms of such alliance will be or whether we will achieve our stated goals from such alliance.

### **Our manufacturing operations are dependent upon third-party suppliers, making us vulnerable to supply shortages.**

We obtain materials and manufactured components from third-party suppliers. Some of our suppliers are the sole source for a particular supply item. Any delay in receiving supplies could impair our ability to deliver products to our customers and, accordingly, could have a material adverse effect on our business, financial condition, results of operations, and cash flows. The volatility in the financial markets and uncertainty in the automotive sector could result in exposure related to the financial viability of certain of our key third-party suppliers. In response to financial pressures, suppliers may also exit certain business lines, or change the terms on which they are willing to provide products. In addition, many of our suppliers have unionized workforces and are subject to work stoppages as a result of labor relations issues.

### **Our business may be adversely affected by government contracting risks.**

We derived approximately 28% of our revenues for the nine months ended July 31, 2009, and approximately 27%, 4% and 2% of our revenues for fiscal 2008, fiscal 2007 and fiscal 2006, respectively, from the U.S. government. Many of our existing U.S. government contracts extend over multiple years and are conditioned upon the continuing availability of congressional appropriations. Congress usually appropriates funds on a fiscal-year basis and if the congressional appropriations for a program under which we are contractors are not made, or are reduced or delayed, our contract could be cancelled or government purchases under the contract could be reduced or delayed, which could adversely affect our financial condition, results of operations, or cash flows. Although we have multiple bids and quotes, there are no guarantees that they will be awarded to us in the future or that volumes will be similar to volumes under previously awarded contracts. In addition, U.S. government contracts generally permit the contracting government agency to terminate the contract, in whole or in part, either for the convenience of the government or for default based on our failure to perform under the contract. If a contract is terminated for convenience, we would generally be entitled to the payment of our allowable costs and an allowance for profit on the work performed. If one of our government contracts were to be terminated for default, we could be exposed to liability and our ability to obtain future contracts could be adversely affected.

### **We must comply with numerous miscellaneous federal national security laws, procurement regulations, and procedures, as well as the rules and regulations of foreign jurisdictions, and our failure to comply could adversely affect our business.**

We must observe laws and regulations relating to the formation, administration and performance of federal government contracts that affect how we do business with our clients and impose added costs on our business. For example, the federal acquisition regulations, foreign government procurement regulations and the industrial security regulations of the Department of Defense and related laws include provisions that:

allow our government clients to terminate or not renew our contracts if we come under foreign ownership, control or influence;

allow our government clients to terminate existing contracts for the convenience of the government;

require us to prevent unauthorized access to classified information; and

require us to comply with laws and regulations intended to promote various social or economic goals.

We are subject to industrial security regulations of the U.S. Department of State, Department of Commerce and the Department of Defense and other federal agencies that are designed to safeguard against foreigners



## **Table of Contents**

access to classified or restricted information. As we expand our operations internationally, we will also become subject to the rules and regulations of foreign jurisdictions. If we were to come under foreign ownership, control or influence, we could lose our facility security clearances, which could result in our federal government customers terminating or deciding not to renew our contracts and could impair our ability to obtain new contracts.

Our failure to comply with applicable laws, regulations or procedures, including federal regulations regarding the procurement of goods and services and protection of classified information, could result in contract termination, loss of security clearances, suspension or prohibition from contracting with the federal government, civil fines and damages and criminal prosecution and penalties, any of which would materially adversely affect our business.

### **Our products are subject to export limitations and we may be prevented from shipping our products to certain nations or buyers.**

We are subject to federal licensing requirements with respect to the sale and support in foreign countries of certain of our products and the importation of components for our products. In addition, we are obligated to comply with a variety of federal, state and local regulations and procurement policies, both domestically and abroad, governing certain aspects of our international sales and support, including regulations promulgated by, among others, the U.S. Departments of Commerce, Defense and State and the U.S. Department of Justice.

Such licenses may be denied for reasons of U.S. national security or foreign policy. In the case of certain large orders for exports of defense equipment, the Department of State must notify Congress at least 15 to 30 days, depending on the size and location of the sale, prior to authorizing certain sales of defense equipment and services to foreign governments. During that time, Congress may take action to block the proposed sale. We can give no assurances that we will continue to be successful in obtaining the necessary licenses or authorizations or that Congress will not prevent or delay certain sales. Any significant impairment of our ability to sell products outside of the U.S. could negatively impact our results of operations and financial condition.

For products and technology exported from the U.S. or otherwise subject to U.S. jurisdiction, we are subject to U.S. laws and regulations governing international trade and exports, including, but not limited to International Traffic in Arms Regulations, Export Administration Regulations, the Foreign Military Sales program and trade sanctions against embargoed countries and destinations, administered by the Office of Foreign Assets Control, U.S. Department of the Treasury. A determination by the U.S. government that we have failed to comply with one or more of these export controls or trade sanctions could result in civil or criminal penalties, including the imposition of significant fines, denial of export privileges, loss of revenues from certain customers, and debarment from participation in U.S. government contracts.

We are subject to the Foreign Corrupt Practices Act (the "FCPA") and other laws which prohibit improper payments to foreign governments and their officials by U.S. and other business entities. We operate in countries known to experience corruption. Our operations in such countries create the risk of an unauthorized payment by one of our employees or agents which would be in violation of various laws including the FCPA.

Additionally, the failure to obtain applicable governmental approval and clearances could materially adversely affect our ability to continue to service the government contracts we maintain. Exports of some of our products to certain international destinations may require shipment authorization from U.S. export control authorities, including the U.S. Departments of Commerce and State, and authorizations may be conditioned on end-use restrictions.

Our international business may pose greater risks than our domestic business due to the greater potential for changes in foreign economic and political environments. Our international business is also highly sensitive to changes in foreign national priorities and government budgets. Sales of military products are affected by defense budgets (both in the U.S. and abroad) and U.S. foreign policy.



## **Table of Contents**

### **We may fail to properly identify and correct material weaknesses or comply with the requirements of Section 404 of the Sarbanes-Oxley Act of 2002.**

Section 404 of the Sarbanes-Oxley Act requires that we evaluate and determine the effectiveness of our internal control over financial reporting. As is further described in Item 9A, Controls and Procedures, of our 2008 Annual Report, we concluded that there are material weaknesses in our internal control over financial reporting. If we do not correct these material weaknesses, or we or our independent registered public accounting firm determines that we have additional material weaknesses in our internal control over financial reporting, we may be unable to provide financial information in a timely and reliable manner. Although we consistently review and evaluate our internal control systems to allow management to report on, and our independent auditors to attest to, the sufficiency of our internal control, we cannot assure you that we will not discover additional material weaknesses in our internal control over financial reporting. Any such additional material weaknesses or failure to correct existing material weaknesses could adversely affect investor confidence in the Company.

### **We have significant under-funded postretirement obligations.**

The under-funded portion of our projected benefit obligation was \$763 million and \$197 million for pension benefits at October 31, 2008 and 2007, respectively, and \$979 million and \$1.1 billion for postretirement healthcare benefits at October 31, 2008 and 2007, respectively. Moreover, we have assumed expected rates of return on plan assets and growth rates of retiree medical costs and the failure to achieve the expected rates of return and growth rates could have an adverse impact on our under-funded postretirement obligations, financial condition, results of operations, and cash flows. The volatility in the financial markets affects the valuation of our pension assets and liabilities, resulting in potentially higher pension costs and higher levels of under-funding in future periods. The requirements set forth in the Employee Retirement Income Security Act of 1974, as amended, and the Internal Revenue Code of 1986, as amended, applicable to our U.S. pension plan (including such timing requirements mandated by the Pension Protection Act of 2006 to fully fund our U.S. pension plans), net of any current or possible future legislative or governmental agency relief, could also have an adverse impact on our business, financial condition, results of operations or cash flows.

### **We are exposed to political, economic, and other risks that arise from operating a multinational business.**

We have significant operations in foreign countries, primarily in Canada, Mexico, Brazil, Argentina and India. Accordingly, our business is subject to the political, economic, and other risks that are inherent in operating in those countries and internationally. These risks include, among others:

Trade protection measures and import or export licensing requirements;

Tax rates in certain foreign countries that exceed those in the U.S. and the imposition of withholding requirements for taxes on foreign earnings;

Difficulty in staffing and managing international operations and the application of foreign labor regulations;

Currency exchange rate risk; and

Changes in general economic and political conditions in countries where we operate, particularly in emerging markets.

### **Our ability to use net operating loss ( NOL ) carryovers to reduce future tax payments could be negatively impacted if there is a change in our ownership or a failure to generate sufficient taxable income.**

Presently, there is no annual limitation on our ability to use U.S. federal NOLs to reduce future income taxes. However, if an ownership change as defined in Section 382 of the Internal Revenue Code of 1986, as amended, occurs with respect to our capital stock, our ability to use NOLs would be limited to specific annual amounts. Generally, an ownership change occurs if certain persons or groups increase their aggregate ownership by more than 50 percentage points of our total capital stock in a three-year period. If an ownership change occurs, our ability to use domestic NOLs to reduce taxable income is generally limited to an annual amount



S-24



## **Table of Contents**

based on the fair market value of our stock immediately prior to the ownership change multiplied by the long-term tax-exempt interest rate. NOLs that exceed the Section 382 limitation in any year continue to be allowed as carryforwards for the remainder of the 20-year carryforward period and can be used to offset taxable income for years within the carryover period subject to the limitation in each year. Our use of new NOLs arising after the date of an ownership change would not be affected. If more than a 50% ownership change were to occur, use of our NOLs to reduce payments of federal taxable income may be deferred to later years within the 20-year carryover period; however, if the carryover period for any loss year expires, the use of the remaining NOLs for the loss year will be prohibited. If we should fail to generate a sufficient level of taxable income prior to the expiration of the NOL carryforward periods, then we will lose the ability to apply the NOLs as offsets to future taxable income.

### **We are involved in pending litigation and an adverse resolution of such litigation may adversely affect our business, financial condition, results of operations or cash flows.**

We are currently involved in a number of pending litigation matters as described below:

*Environmental Matters.* Along with other vehicle manufacturers, we have been subject to an increase in the number of asbestos-related claims in recent years. In general, these claims relate to illnesses alleged to have resulted from asbestos exposure from component parts found in older vehicles, although some cases relate to the alleged presence of asbestos in our facilities. In these claims we are not the sole defendant, and the claims name as defendants numerous manufacturers and suppliers of a wide variety of products allegedly containing asbestos. We have strongly disputed these claims, and it has been our policy to defend against them vigorously. It is possible that the number of these claims will continue to grow, and that the costs for resolving asbestos related claims could become significant in the future.

*Continental Automotive Systems US, Inc.* In March 2009, Continental Automotive Systems US, Inc. ( Continental ) sent notice to Navistar, Inc. pursuant to a contract between them, making a demand for binding arbitration for alleged breach of contract and alleged negligent misrepresentation relating to Navistar's unexpected low volume of purchases of engine components from Continental and seeking monetary damages. If the dispute is submitted to arbitration, pursuant to the contract, such arbitration would be administered under the rules of the International Institute of Conflict Preservation and Resolution. The parties have been discussing a business resolution of these disputes and such discussions continue.

*Litigation Relating to Accounting Controls and Financial Restatement.* In December 2007, a complaint was filed against us by Norfolk County Retirement System and Brockton Contributory Retirement System (collectively Norfolk ). In March 2008, an additional complaint was filed by Richard Garza, which was subsequently amended and restated by a complaint filed in October 2009. Each of these matters is pending in the United States District Court, Northern District of Illinois.

The plaintiffs in the Norfolk case allege they are shareholders suing on behalf of themselves and a class of other shareholders who purchased shares of the Company's common stock between February 14, 2003 and July 17, 2006. The complaint alleges that the defendants, which include us, one of our executive officers, two of our former executive officers, and our former independent accountants, Deloitte & Touche LLP, violated federal securities laws by making false and misleading statements about our financial condition during that period. In March 2008, the court appointed Norfolk County Retirement System and the Plumbers Local Union 519 Pension Trust as joint lead plaintiffs. On July 7, 2008, we filed a motion to dismiss the complaint based on the plaintiffs' failure to plead any facts tending to show the defendants' actual knowledge of the alleged false statements or that the plaintiffs suffered damages. On July 28, 2009, the Court denied the motion to dismiss. The plaintiffs in this matter seek compensatory damages and attorneys' fees among other relief.

The plaintiff in the Garza case brought a derivative claim on behalf of our Company against one of our executive officers, two of our former executive officers, and certain of our directors. The amended complaint alleges that all of the defendants violated their fiduciary obligations under Delaware law by willfully ignoring certain accounting and financial reporting problems at our Company, thereby knowingly disseminating false and



## **Table of Contents**

misleading financial information about our Company and certain of the defendants were unjustly enriched in connection with their sale of NIC stock during the December 2002 to January 2006 period. The plaintiffs in this matter seek compensatory damages, disgorgement of the proceeds of defendants' profits from the sale of NIC stock, attorneys' fees, and other equitable relief.

*SEC Investigation.* In January 2005, we announced that we would restate our financial results for 2002 and 2003 and the first three quarters of 2004. Our restated Annual Report on Form 10-K was filed in February 2005. The SEC notified us on February 9, 2005 that it was conducting an informal inquiry into our restatement. On March 17, 2005, we were advised by the SEC that the status of the inquiry had been changed to a formal investigation. On April 7, 2006, we announced that we would restate our financial results for 2002 through 2004 and for the first three quarters of 2005. We were subsequently informed by the SEC that it was expanding the investigation to include this restatement. Our 2005 Annual Report on Form 10-K, which included the restated financial statements, was filed in December 2007. We have been providing information to and fully cooperating with the SEC on this investigation. As discussed herein, we recently reached a proposal settlement with the investigative staff of the SEC with respect to this matter. We cannot assure you the proposed settlement will be approved by the SEC and, in the event the proposed settlement is not approved, what the ultimate resolution of this investigation will be.

*Commercial Steam LLC and Andrew Harold vs. Ford Motor Co. and Navistar International Corporation.* In October 2009, Commercial Steam LLC and Andrew Harold (collectively, the plaintiffs) filed a complaint against NIC in the United States District Court for the Southern District of West Virginia. The plaintiffs in this case allege they are suing on behalf of themselves and a class of other West Virginia residents who purchased a model year 2003 to 2006 Ford F-Series truck with a 6.0 liter Power Stroke engine. The complaint alleges problems with these vehicles and engines, including, but not limited to, the fuel system, fuel injectors, oil leaks, broken turbochargers and other warranty claims. The plaintiffs in this matter seek compensatory damages, interest and attorneys' fees among other relief.

Litigation can be expensive, lengthy, and disruptive to normal business operations. The results of complex legal proceedings are often uncertain and difficult to predict. An unfavorable outcome of a particular matter described above or any future legal proceedings could have a material adverse effect on our business, financial condition, results of operations or cash flows.

### **Potential future impairments of our goodwill, intangible assets, or other long-lived assets could adversely effect our financial condition and results of operations.**

We have a substantial amount of goodwill, intangible assets, and other long-lived assets which are subject to periodic impairment analysis and review. Identifying and assessing whether impairment indicators exist, or if events or changes in circumstances have occurred, including market conditions, operating results, competition and general economic conditions, requires significant judgment. In the fourth quarter of fiscal 2008, our Engine segment recognized \$358 million for impairments of property and equipment related to asset groups in the VEE Business Unit. In addition, our Truck segment recorded a non-cash charge of \$4 million to reflect impairment of goodwill and a non-cash charge of \$10 million for impairment of dealer franchise rights with respect to certain of our dealership subsidiaries in the fourth quarter of fiscal 2008. If in the future, we determine that there has been an impairment, our earnings for the relevant period would be reduced by the amount of the impairment, net of any income tax effects, which could have an adverse effect on our financial condition and results of operations.



**Table of Contents****Risks Related to the Notes**

**We have a significant amount of debt, which limits our flexibility and imposes restrictions on us, and a downturn in economic or industry conditions may materially affect our ability to meet our future financial commitments and liquidity needs.**

We have a substantial amount of indebtedness. The following table sets forth certain important information regarding our capitalization as of July 31, 2009, on an as adjusted basis to give effect to the sale of the notes in this offering and the concurrent convertible notes offering and the application of the net proceeds therefrom.

	<b>As Adjusted (in millions)</b>
Debt:	
Manufacturing operations	\$ 1,988
Financial services operations	3,401
 Total debt	 5,389
Stockholders' deficit	\$ (1,430)

Our ability to satisfy our debt, lease, pension, healthcare and other obligations, and our ability to refinance our indebtedness, will depend upon our future operating performance, which will be affected by prevailing economic conditions in the markets that we serve and financial, business and other factors, many of which are beyond our control. We may be unable to generate sufficient cash flow from operations and future borrowings or other financing may be unavailable in an amount sufficient to enable us to fund our future financial obligations or our other liquidity needs.

The amount and terms of our debt could have material consequences to our business, including, but not limited to:

increasing our vulnerability to general adverse economic and industry conditions;

limiting our ability to obtain additional financing to fund growth, such as mergers and acquisitions, working capital, capital expenditures, debt service requirements or other cash requirements;

exposing us to the risk of increased interest costs if the underlying interest rates rise;

limiting our ability to invest operating cash flow in our business due to existing debt service requirements;

causing a decline in our credit ratings;

limiting our ability to compete with companies that are not as leveraged and that may be better positioned to withstand economic downturns; and

limiting our flexibility in planning for, or reacting to, and increasing our vulnerability to, changes in our business, the industry in which we compete and general economic and market conditions.

**Despite our current levels of debt, we may still be able to incur substantially more debt. This could further exacerbate the risks associated with our substantial debt.**



## Edgar Filing: NAVISTAR INTERNATIONAL CORP - Form 424B5

We may be able to incur additional debt in the future. The terms of the indentures governing the notes and the convertible notes will allow us to incur substantial amounts of additional debt, subject to certain limitations. For example, we may incur additional indebtedness in an amount equal to the greater of: \$200 million and a borrowing base equal to 85% of accounts receivables and 60% of inventory (up to a maximum of \$1,000 million) under one or more credit facilities and an additional \$150 million under any type of borrowing arrangement under the indenture governing the notes. The indenture governing the convertible notes does not limit our ability to incur additional indebtedness. We currently have in place an asset-backed revolving credit facility that permits

S-27



## **Table of Contents**

Navistar, Inc. to borrow up to \$190 million. As of July 31, 2009, Navistar, Inc. had no outstanding borrowings under this facility. If new indebtedness is added to our current debt levels, the risks we face with respect to our substantial indebtedness could intensify. Moreover, the indenture governing the notes and our other debt agreements do not impose any limitation on our incurrence of liabilities that are not considered indebtedness under the terms of such documents.

### **NIC is a holding company that has no independent operations and is dependent on its subsidiaries for cash.**

NIC is a holding company, and substantially all of its consolidated assets are held by its subsidiaries. Accordingly, its cash flows and ability to meet its obligations are largely dependent upon the earnings of its subsidiaries and the payment of such earnings to it in the form of dividends, distributions, loans or otherwise, and repayment of such loans or advances from it. These subsidiaries are separate and distinct legal entities and generally have no obligation to provide NIC with funds for its payment obligations, whether by dividends, distributions, loans or otherwise. The ability of NIC's subsidiaries to pay dividends or make other advances or transfer of funds will depend on their respective results of operations and may be restricted by, among other things, applicable law and contractual provisions limiting the amount of funds available to make dividends and agreements of those subsidiaries. For example, the payment of dividends by NFC to Navistar, Inc. is limited by the terms of NFC's bank credit facility. See Description of Other Financing Arrangements Financial Services Operations NFC Credit Facility.

### **The notes and the guarantees will not be secured by any of our assets and therefore will be effectively subordinated to our future secured indebtedness.**

The notes and any guarantees thereof will be general unsecured obligations ranking effectively junior in right of payment to all future secured debt of NIC or the Guarantor to the extent of the collateral securing such debt. The Guarantor had approximately \$270 million of outstanding secured debt at July 31, 2009 under certain financing arrangements and capital lease obligations. In addition, the indenture governing the notes will permit the incurrence of additional debt, some of which may be secured debt. For example, we may incur additional secured indebtedness in an amount equal to the greater of: \$200 million and a borrowing base equal to 85% of accounts receivables and 60% of inventory (up to a maximum of \$1,000 million) under one or more credit facilities. In the event that NIC or the Guarantor is declared bankrupt, becomes insolvent or is liquidated or reorganized, creditors whose debt is secured by assets of NIC or the Guarantor will be entitled to the remedies available to secured holders under applicable laws, including the foreclosure of the collateral securing such debt, before any payment may be made with respect to the notes or the affected guarantees. As a result, there may be insufficient assets to pay amounts due on the notes and holders of the notes may receive less, ratably, than holders of secured indebtedness.

### **The notes are structurally subordinated to the existing and future liabilities of our subsidiaries that do not guarantee the notes to the extent of the assets of such non-guarantor subsidiaries.**

Initially, the notes will only be guaranteed by Navistar, Inc. As a result, the notes will be structurally subordinated to all existing and future liabilities of our other subsidiaries that do not guarantee the notes. Therefore, NIC's rights and the rights of its creditors to participate in the assets of any non-guarantor subsidiary in the event that such a subsidiary is liquidated or reorganized are subject to the prior claims of such subsidiary's creditors. As a result, all indebtedness and other liabilities, including trade payables, of the non-guarantor subsidiaries, whether secured or unsecured, must be satisfied before any of the assets of such subsidiaries would be available for distribution, upon a liquidation or otherwise, to NIC in order for NIC to meet its obligations with respect to the notes. To the extent that NIC may be a creditor with recognized claims against any subsidiary, its claims would still be subject to the prior claims of such subsidiary's creditors to the extent that they are secured or senior to those held by it. NIC's subsidiaries may incur additional indebtedness and other liabilities under the terms of the indenture governing the notes.



## **Table of Contents**

As of July 31, 2009, after giving effect to the completion of the offering, the concurrent offering of convertible notes and the application of the net proceeds therefrom as set forth in Use of Proceeds, NIC's non-guarantor restricted subsidiaries would have had (i) approximately \$13 million of outstanding indebtedness, (ii) approximately \$1,805 million of total liabilities, including trade payables and accrued expenses, and (iii) approximately \$2,781 million of total assets; and NIC's unrestricted subsidiaries would have had (i) approximately \$3,563 million of outstanding indebtedness, of which \$3,401 million was indebtedness of our financial services operations and \$162 million was indebtedness of our majority-owned dealership subsidiaries, (ii) approximately \$4,007 million of liabilities, of which \$3,627 million were liabilities of our financial services operations and \$191 million were liabilities of our majority-owned dealership subsidiaries, and (iii) approximately \$4,788 million of total assets, of which \$3,940 million constituted assets of our financial services operations and \$364 million constituted assets of our majority-owned dealership subsidiaries.

**A number of our subsidiaries will be classified as Unrestricted Subsidiaries under the indenture governing the notes and thus will not be bound by any of the covenants and operating restrictions contained in the indenture.**

All of the subsidiaries that comprise our financial services operations, the BDT and BDP joint ventures and those subsidiaries whose principal business is owning one of our *International* truck dealerships will be classified as Unrestricted Subsidiaries under the indenture governing the notes offered hereby. As a result, these subsidiaries will not be bound by any of the covenants and operating restrictions contained in the indenture and their outstanding indebtedness will not affect, among other things, the amount of indebtedness that NIC and its restricted subsidiaries may incur under the indenture. Our relationship with our financial services operations are governed by various master intercompany agreements and an agreement pursuant to which we provide credit support to NFC under NFC's bank credit facility by agreeing not to permit NFC's consolidated net income before income taxes, interest expense and dividends on preferred stock, if any, to be less than 125% of NFC's consolidated interest expense and dividends on preferred stock. For the most part, the indenture governing the notes will not restrict our ability to engage in transactions with our financial services subsidiaries under these agreements. As a result, we will be able to incur additional indebtedness from, or make loans to or investments in, or otherwise engage in ordinary course transactions with, such subsidiaries pursuant to the terms of these agreements. For more information relating to the relationship between Navistar, Inc. and NFC, see Certain Arrangements with NFC.

**Our ability to generate the significant amount of cash needed to pay interest and principal on the notes and service our other debt and financial obligations and our ability to refinance all or a portion of our indebtedness or obtain additional financing depends on many factors beyond our control.**

Our ability to make payments on and to refinance our indebtedness, including the notes, depends on our ability to generate cash in the future. We are subject to general economic, industry, financial, competitive, legislative, regulatory and other factors that are beyond our control. As a result, we may need to refinance all or a portion of our indebtedness, including the notes, on or before maturity. Our ability to refinance debt or obtain additional financing will depend on, among other things:

our financial condition at the time;

restrictions in the indenture governing the notes and any other indebtedness; and

other factors, including financial market or industry conditions.

As a result, we may not be able to refinance any of our indebtedness, including the notes, on commercially reasonable terms, or at all. If our operations do not generate sufficient cash flow from operations, and additional borrowings or refinancings are not available to us, we may not have sufficient cash to enable us to meet all of our obligations, including payments on the notes.



## **Table of Contents**

**The terms of the agreements governing our indebtedness contain significant restrictions that limit our operating and financial flexibility.**

The indenture governing the notes and the agreements governing our and our subsidiaries' other indebtedness contain various covenants and other restrictions that limit our ability and the ability of our restricted subsidiaries to engage in specified types of transactions. These covenants and other restrictions limit our and our restricted subsidiaries' ability to, among other things:

make restricted payments;

incur additional debt and issue preferred or disqualified stock;

create liens;

create or permit to exist restrictions on our ability or the ability of our restricted subsidiaries to make certain payments or distributions;

engage in sale-leaseback transactions;

engage in mergers or consolidations or transfer all or substantially all of our assets;

designations of restricted and unrestricted subsidiaries;

make certain dispositions and transfers of assets;

place limitations on the ability of our restricted subsidiaries to make distributions;

enter into transactions with affiliates; and

guarantee indebtedness.

These restrictions on operations and financings, as well as those that may be contained in future debt agreements, may limit our ability to execute preferred business strategies. Moreover, if operating results fall below current levels, we may be unable to comply with these covenants. If that occurs, our lenders, including you, could accelerate their debt. If their debt is accelerated, we may not be able to repay all of their debt, in which case your notes may not be fully repaid, if they are repaid at all.

**We may be unable to repurchase notes in the event of a change of control as required by the indenture.**

Upon the occurrence of certain kinds of change of control events specified in the indenture, you will have the right, as a holder of the notes, to require us to repurchase all of your notes at a repurchase price equal to 101% of their principal amount, plus accrued and unpaid interest, if any, to the date of repurchase. In addition, holders of the convertible notes being offered concurrently will also have the right to require us to make a similar offer to purchase our convertible notes upon the occurrence of certain kinds of change of control events.



We may not be able to pay you the required price for your notes at that time because we may not have available funds to pay the repurchase price. We also may not have available funds to be able to repurchase the convertible notes. In addition, the terms of future debt may prevent us from paying you. There can be no assurance that we would be able to repay such other debt or obtain consents from the holders of such other debt to repurchase these notes, or the convertible notes. Any requirement to offer to purchase any outstanding notes or convertible notes may result in us having to refinance our outstanding indebtedness, which we may not be able to do. In addition, even if we were able to refinance our outstanding indebtedness, such financing may be on terms unfavorable to us. In addition, our ability to repurchase the notes or the convertible notes may be limited by law or by regulatory authority

Our failure to repurchase surrendered notes or convertible notes at a time when the repurchase is required by their respective indentures would constitute a default under each respective indenture. A default under either of the indentures or the change of control itself could also lead to a default under the agreements governing our other indebtedness. If the repayment of the related indebtedness were to be accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay the indebtedness and repurchase the notes or convertible notes or make cash payments upon conversions thereof.

S-30



## **Table of Contents**

**Federal and state fraudulent conveyance laws may permit a court to void the guarantees, and, if that occurs, you may not receive any payments on the guarantees.**

The issuance of the guarantees may be subject to review under federal and state fraudulent conveyance statutes. While the relevant laws may vary from state to state, under such laws the payment of consideration generally will be a fraudulent conveyance if:

it was paid with the intent of hindering, delaying or defrauding creditors; or

the guarantors received less than fair consideration in return for issuing a guarantee and either:

the guarantor was insolvent or rendered insolvent by reason of the incurrence of the indebtedness;

payment of the consideration left the guarantor with an unreasonably small amount of capital to carry on the business; or

the guarantor intended to, or believed that it would, incur debts beyond its ability to pay the debt.

If a court were to find that the issuance of a guarantee was a fraudulent conveyance, the court could void the payment obligations under such guarantee or further subordinate such guarantee to presently existing and future indebtedness, or require the holders of the notes to repay any amounts received with respect to such guarantee. In the event of a finding that a fraudulent conveyance occurred, you may not receive any repayment on the notes. Further, the voidance of a guarantee could result in an event of default with respect to our other debt that could result in acceleration of that debt.

**The notes offered hereby will be issued with more than a *de minimis* amount of OID for U.S. federal income tax purposes. and, in a bankruptcy case, the claims of holders of the notes may be reduced by the amount of unmatured interest.**

The notes will be issued with more than a *de minimis* amount of OID for U.S. federal income tax purposes. Holders will be required to include amounts representing the OID in gross income on a constant yield basis for U.S. federal income tax purposes in advance of the receipt of cash payments to which such income is attributable, in addition to their inclusion in income of stated interest on the notes. For more information, see Certain U.S. Federal Income Tax Considerations.

If a bankruptcy case is subsequently commenced by or against us under the federal bankruptcy laws, the claim of a holder of notes with respect to the principal amount may be limited to an amount equal to the sum of the initial offering price allocable to the notes plus that portion of the OID which is not deemed to constitute unmatured interest for purposes of the federal bankruptcy laws. Any original issue discount that is not amortized as of any such bankruptcy filing would constitute unmatured interest.

**An active trading market may not develop for the notes.**

The notes are a new issue of securities for which there is currently no trading market. Although the underwriters have informed us that they currently intend to make a market in the notes after we complete the offering, they have no obligation to do so and may discontinue making a market at any time without notice. In addition, any market-making activity will be subject to the limits imposed by federal securities laws and may be limited during the offering of the notes.



**Table of Contents**

If an active trading market does not develop or is not maintained, the market price and liquidity of the notes may be adversely affected. In that case, you may not be able to sell your notes at a particular time or you may not be able to sell your notes at a favorable price. The liquidity of any market for the notes will depend on a number of factors, including:

the number of holders of the notes;

our ratings published by major credit rating agencies;

our financial performance;

the market for similar securities;

the interest of securities dealers in making a market in the notes; and

prevailing interest rates.

We cannot assure you that an active market for the notes will develop or, if developed, that it will continue.

S-32



**Table of Contents**

**FORWARD-LOOKING STATEMENTS**

This prospectus supplement and the documents incorporated herein contain forward-looking statements within the meaning of Section 27A of the Securities Act, Section 21E of the Exchange Act and the Private Securities Litigation Reform Act of 1995 that are subject to risks and uncertainties. You should not place undue reliance on those statements because they are subject to numerous uncertainties and factors relating to our operations and business environment, all of which are difficult to predict and many of which are beyond our control, and such forward-looking statements only speak as of the date of this prospectus supplement. Forward-looking statements include information concerning our possible or assumed future results of operations, including descriptions of our business strategy. These statements often include words such as committed, believe, expect, anticipate, intend, plan, estimate or similar expressions. These statements are based on assumptions that have been made in light of our experience in the industry as well as our perceptions of historical trends, current conditions, expected future developments and other factors we believe are appropriate under the circumstances. As you read and consider this prospectus supplement and the documents incorporated herein, you should understand that these statements are not guarantees of performance or results. They involve risks, uncertainties and assumptions. Although we believe that these forward-looking statements are based on reasonable assumptions, you should be aware that many factors could affect our actual financial results or results of operations and could cause actual results to differ materially from those in the forward-looking statements. Some of these factors include:

The markets in which we compete are subject to considerable cyclicalities.

Our technology solution to meet U.S. federal 2010 emissions requirements may not be successful or may be more costly than planned.

We may be subject to greenhouse gas regulations.

We operate in the highly competitive North American truck market.

Our business may be adversely impacted by work stoppages and other labor relations matters.

Current credit market conditions may impair our access to sufficient capital to engage in financing activities.

Our liquidity position may be adversely affected by a continued downturn in our industry and the upcoming maturity of the NFC senior credit facility.

The loss of business from Ford could have a negative impact on our business, financial condition, and results of operations.

We may not achieve all of the expected benefits from our current business strategies and initiatives.

Our manufacturing operations are dependent upon third-party suppliers, making us vulnerable to supply shortages.

Our business may be adversely affected by government contracting risks.



## Edgar Filing: NAVISTAR INTERNATIONAL CORP - Form 424B5

We must comply with numerous miscellaneous federal national security laws, procurement regulations, and procedures, as well as the rules and regulations of foreign jurisdictions, and our failure to comply could adversely affect our business.

Our products are subject to export limitations and we may be prevented from shipping our products to certain nations or buyers.

We may fail to properly identify and correct material weaknesses or comply with the requirements of Section 404 of the Sarbanes-Oxley Act of 2002.

We have significant under-funded postretirement obligations.

We are exposed to political, economic, and other risks that arise from operating a multinational business.

S-33



**Table of Contents**

Our ability to use NOL carryovers to reduce future tax payments could be negatively impacted if there is a change in our ownership or a failure to generate sufficient taxable income.

We are involved in pending litigation and an adverse resolution of such litigation may adversely affect our business, financial condition, results of operations or cash flows.

Potential future impairments of our goodwill, intangible assets, or other long-lived assets could adversely affect our financial condition and results of operations.

Other factors described in the Risk Factors section of this prospectus supplement.

All future written and oral forward-looking statements by us or persons acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to above. Except for our ongoing obligations to disclose material information as required by the federal securities laws, we do not have any obligations or intention to release publicly any revisions to any forward-looking statements to reflect events or circumstances in the future or to reflect the occurrence of unanticipated events.

S-34



**Table of Contents**

**USE OF PROCEEDS**

The net proceeds from this offering of the notes, after deducting the underwriters' discounts and commissions and estimated offering expenses payable by us are estimated to be approximately \$945 million. The net proceeds from our concurrent convertible notes offering will be approximately \$532.5 million (or approximately \$605.25 million if the underwriters exercise in full their over-allotment option), after deducting the underwriters' discounts and commissions and estimated offering expenses payable by us.

We expect to use a portion of the net proceeds from this offering and the concurrent convertible notes offering to repay all amounts outstanding under the Credit Facilities, together with any accrued and unpaid interest thereon, and approximately \$19 million to cash collateralize certain outstanding letters of credit. The remaining proceeds from these offerings will be used for general corporate purposes, including to fund capital expenditures and strategic initiatives.

The Credit Facility has a final scheduled maturity of January 19, 2012, and the borrowings thereunder had a weighted average interest rate of 3.54% as of July 31, 2009.

Certain affiliates of the underwriters are lenders under our existing Credit Facility and such affiliates, in their capacities as lenders, will receive a portion of the net proceeds of this offering. In connection with our concurrent convertible notes offering, we entered into convertible note hedge and warrant transactions with counterparties who are affiliates of the underwriters. We used existing cash to pay the costs of such transactions. See Underwriting.

This offering is conditioned upon the completion of the concurrent convertible notes offering such that we have sufficient net proceeds to repay all amounts outstanding under the Credit Facilities.



**Table of Contents****CAPITALIZATION**

The following table sets forth our cash and cash equivalents and capitalization as of July 31, 2009 on:

an actual basis; and

as adjusted to give effect to the sale of the notes in this offering and the concurrent offering of the convertible notes and the application of the net proceeds therefrom as set forth in Use of Proceeds and the convertible note hedge and warrant transactions.

This table should be read in conjunction with the information contained herein under the heading Use of Proceeds, and under the heading Management's Discussion and Analysis of Results of Operations and Financial Condition and in our consolidated financial statements and notes thereto, each of which is in our 2008 Annual Report and in our Third Quarter 10-Q, each of which are incorporated by reference in this prospectus supplement.

	<b>At July 31, 2009</b>	
	<b>Actual</b>	<b>As Adjusted</b>
	<b>(in millions,</b>	<b>(in millions,</b>
	<b>except per share</b>	<b>except per share</b>
	<b>data)</b>	<b>data)</b>
<b>Cash and cash equivalents:</b>		
Manufacturing operations(1)	\$ 751	\$ 841
Financial services operations	70	70
Total cash and cash equivalents	\$ 821	\$ 911
<b>Total debt (including current portion):</b>		
Manufacturing operations:		
Credit Facilities, due 2012(2)	\$ 1,330	\$ 963
8.25% senior notes offered hereby(3)		550
3.00% convertible subordinated notes offered in a concurrent offering		
Majority-owned <i>International</i> dealership debt(4)	162	162
Financing arrangements and capital lease obligations(5)	278	278
7.5% senior notes due 2011 (net of unamortized discount of less than \$1 million)	15	15
9.95% senior notes due 2011	4	4
Other	16	16
Total manufacturing operations debt	1,805	1,988
Financial services operations(6):		
Asset-backed debt issued by consolidated SPEs, at variable rates, due serially through 2016	1,439	1,439
Bank credit facilities, at fixed and variable rates, due dates from 2010 through 2013(7)	1,259	1,259
Revolving retail warehouse facility, at variable rates, due 2010	500	500
Commercial paper, at variable rates, due serially through 2010	75	75
Borrowings secured by operating and finance leases, at various rates, due serially through 2016	128	128
Total financial services debt	3,401	3,401
Total debt	5,206	5,389

**Stockholders' deficit:**



## Edgar Filing: NAVISTAR INTERNATIONAL CORP - Form 424B5

Series D convertible junior preference stock (liquidation preference \$4 million)	4	4
Common stock, \$0.10 par value per share, 110.0 million shares authorized, 75.4 million shares issued and outstanding	7	7
Additional paid in capital	2,106	2,070
Accumulated deficit	(2,158)	(2,200)
Accumulated other comprehensive loss	(1,157)	(1,157)
Common stock held in treasury, at cost, 4.8 million shares	(154)	(154)
 Total stockholders' deficit	 (1,352)	 (1,430)
 Total capitalization	 \$ 3,854	 \$ 3,959

S-36



## Table of Contents

- (1) In connection with our concurrent convertible notes offering, we entered into convertible note hedge and warrant transactions. We used approximately \$36 million of existing cash to pay the costs of such transactions. We have reduced the amount of cash we would have had as of July 31, 2009 on an as adjusted basis to reflect the cost of these transactions. The amount of cash we would have had as of July 31, 2009 on an as adjusted basis does not include \$19 million of cash that we intend to use to cash collateralize certain outstanding letters of credit.
- (2) In connection with the repayment of all amounts outstanding under the Credit Facilities, we will write-off all unamortized capitalized debt issuance costs associated with such facility, which had a balance of \$16 million as of July 31, 2009. The foregoing table does not reflect this write-off.
- (3) The notes have been reflected in the table at their discounted value. This discount will be amortized over the life of the notes as additional interest expense.
- (4) Represents indebtedness incurred by certain of our majority-owned subsidiaries whose principal business is owning an *International* dealership. These subsidiaries are acquired and disposed of from time to time by us in order to facilitate the transition of *International* dealerships from one independent owner to another. Neither NIC nor any of its other subsidiaries have guaranteed any of the obligations of these subsidiaries with respect to this indebtedness. These subsidiaries will be *Unrestricted Subsidiaries* under the indenture governing the notes. As a result, these subsidiaries will not be bound by any of the covenants and operating restrictions contained in the indenture and their outstanding indebtedness will not affect, among other things, the amount of indebtedness we may incur under the indenture.
- (5) Included in our financing arrangements and capital lease obligations are financing arrangements of \$268 million as of July 31, 2009. These arrangements involve the sale and leaseback of manufacturing equipment that we consider to be integral equipment and thus we account for these arrangements as financings. The inception dates of these arrangements range from December 1999 to June 2002, the remaining terms range from 10 months to 5 years and the effective interest rates range from 3.2% to 9.6%. In addition, the amount of financing arrangements and capital lease obligations include \$10 million of capital leases for real estate and equipment as of July 31, 2009. As of July 31, 2009, Navistar, Inc. had approximately \$270 million of outstanding secured indebtedness under various financing arrangements and capital lease obligations.
- (6) The subsidiaries that comprise our financial services operations will be *Unrestricted Subsidiaries* under the indenture governing the notes. As a result, these subsidiaries will not be bound by any of the covenants and operating restrictions contained in the indenture and their outstanding indebtedness will not affect, among other things, the amount of indebtedness we may incur under the indenture.
- (7) Includes borrowings of approximately \$282 million by NIC's Mexican finance subsidiaries under various bank credit facilities, of which approximately \$29 million was guaranteed by each of NFC and NIC, approximately \$170 million was guaranteed by NFC and approximately \$59 million was guaranteed by NIC. The amount of total manufacturing operations debt as set forth in the foregoing table does not include NIC's guarantees of this indebtedness. See *Description of Other Financing Arrangements* *Financial Services Operations* *Other Financial Services Borrowings*.

S-37



**Table of Contents****MANAGEMENT**

The following sets forth selected information for each of the principal officers listed below.

<b>Name</b>	<b>Age</b>	<b>Position</b>
Daniel C. Ustian	59	Chairman, President and Chief Executive Officer
Andrew J. Cederroth	44	Executive Vice President and Chief Financial Officer
Steven K. Covey	58	Senior Vice President, Chief Ethics Officer and General Counsel
James M. Moran	43	Vice President and Treasurer
John P. Waldron	45	Vice President and Controller
Curt A. Kramer	41	Corporate Secretary
D.T. (Dee) Kapur	56	President, Truck Group, Navistar, Inc.
Phyllis E. Cochran	57	Senior Vice President and General Manager of the Parts Group of Navistar, Inc.
Gregory W. Elliott	48	Senior Vice President, Human Resources and Administration of Navistar, Inc.
William A. Caton	58	Executive Vice President and Chief Risk Officer

**Daniel C. Ustian** has served as President and Chief Executive Officer of NIC since 2003 and Chairman of the Board of Directors of NIC since 2004. He is also Chairman of Navistar, Inc. since 2004 and President and Chief Executive Officer of Navistar, Inc. since 2003 and a director since 2002. Prior to these positions, he was President and Chief Operating Officer from 2002 to 2003, and President of the Engine Group of Navistar, Inc. from 1999 to 2002, and he served as Group Vice President and General Manager of Engine & Foundry from 1993 to 1999. He is a member of the Business Roundtable, Society of Automotive Engineers and the American Foundry Association.

**Andrew J. Cederroth** has served as Executive Vice President and Chief Financial Officer of NIC since September 2009. Mr. Cederroth is also a director of Navistar, Inc. since April 2009, and Executive Vice President and Chief Financial Officer at Navistar, Inc. since September 2009. Prior to these positions he was interim principal financial officer and Senior Vice President Corporate Finance of NIC from June 2009 to September 2009, Vice President Corporate Finance from April 2009 to June 2009 of NIC, Vice President and Chief Financial Officer of the Engine Division of Navistar, Inc. from 2007 to April 2009, Vice President Finance of Navistar's Engine Division from 2006 to 2007, Vice President and Treasurer of NFC from 2005 to 2006 and Treasurer of NFC from 2001 to 2005.

**Steven K. Covey** has served as Senior Vice President and General Counsel of NIC since 2004 and Chief Ethics Officer since 2008. Mr. Covey also is Senior Vice President and General Counsel of Navistar, Inc. since 2004 and Chief Ethics Officer since 2008. Prior to these positions, Mr. Covey served as Deputy General Counsel of Navistar, Inc. from April 2004 to September 2004 and as Vice President and General Counsel of Navistar Financial Corporation from 2000 to 2004. Mr. Covey also served as Corporate Secretary for NIC from 1990 to 2000; and Associate General Counsel of Navistar, Inc. from 1992 to 2000.

**James M. Moran** has served as Vice President and Treasurer of NIC since 2008. Mr. Moran is also Vice President and Treasurer of Navistar, Inc. since 2008. Prior to these positions, Mr. Moran served as Vice President and Assistant Treasurer of both NIC and Navistar, Inc. from 2007 to 2008 and Director of Corporate Finance of Navistar, Inc. from 2005 to 2007. Prior to joining NIC, Mr. Moran served as Vice President and Treasurer of R.R. Donnelley & Sons Company, an international provider of print and print related services, from 2003 to 2004 and Assistant Treasurer of R.R. Donnelley & Sons Company from 2002 to 2003. Prior to that, Mr. Moran held various positions in corporate finance, strategic planning, and credit and collections at R.R. Donnelley & Sons Company.

**John P. Waldron** has served as Vice President and Controller (Principal Accounting Officer) of NIC since 2006. Prior to this position, Mr. Waldron was employed from 2005 to 2006 as Vice President, Assistant Corporate Controller of R.R. Donnelley & Sons Company. Prior to that, Mr. Waldron was employed from 1999 to 2005 as Corporate Controller of Follett Corporation, a provider of education-related products and services.



## **Table of Contents**

**Curt A. Kramer** has served as Corporate Secretary of NIC since 2007. Mr. Kramer also is Associate General Counsel and Corporate Secretary of Navistar, Inc. since 2007. Prior to these positions, Mr. Kramer served as General Attorney of Navistar, Inc. from April 2007 to October 2007, Senior Counsel of Navistar, Inc. from 2004 to 2007, Senior Attorney of Navistar, Inc. from 2003 to 2004 and Attorney of Navistar, Inc. from 2002 to 2003. Prior to joining Navistar, Inc., Mr. Kramer was in private practice.

**D.T. (Dee) Kapur** has served as President of the Truck Group of Navistar, Inc. since 2003. Prior to joining Navistar, Inc., Mr. Kapur was employed by Ford Motor Company, a leading worldwide automobile manufacturer, from 1976 to 2003, most recently serving as Executive Director of North American Business Revitalization, Value Engineering from 2002 to 2003; Executive Director of Ford Outfitters, North American Truck, from 2001 to 2002; and Vehicle Line Director, Full Size Pick-ups and Utilities from 1997 to 2001. In July 2009, Mr. Kapur joined the board of directors at Bucyrus International, Inc.

**Phyllis E. Cochran** has served as Senior Vice President and General Manager of the Parts Group of Navistar, Inc. since 2007. Prior to this position, Ms. Cochran served as Vice President and General Manager of the Parts Group of Navistar, Inc. from 2004 to 2007. Ms. Cochran was also Chief Executive Officer and General Manager of Navistar Financial Corporation from 2003 to 2004. Ms. Cochran was Executive Vice President and General Manager of Navistar Financial Corporation from 2002 to 2003. Ms. Cochran also served as Vice President of Operations for Navistar Financial Corporation from 2000 to 2002; and Vice President and Controller for Navistar Financial Corporation from 1994 to 2000. She is a director of The Mosaic Company, a world leading producer and marketer of concentrated phosphate and potash crop nutrients.

**Gregory W. Elliott** has served as Senior Vice President, Human Resources and Administration of Navistar, Inc. since 2008. Prior to this position, Mr. Elliott served as Vice President, Corporate Human Resources and Administration of Navistar, Inc. from 2004 to 2008 and as Vice President, Corporate Communications of Navistar, Inc., from 2000 to 2004. Prior to joining Navistar, Inc., Mr. Elliott served as Director of Executive Communications of General Motors Corporation from 1997 to 1999.

**William A. Caton** has served as, Executive Vice President and Chief Risk Officer of NIC since 2008. He is also Executive Vice President and Chief Risk Officer of Navistar, Inc. since 2008. Prior to these positions, he served as a director and Executive Vice President and Chief Financial Officer of both NIC and Navistar, Inc. from 2006 to 2008 and Executive Vice President and Vice President, Finance of both NIC and Navistar, Inc. from 2005 to 2006. Prior to these positions, he was employed by various subsidiaries of Dover Corporation from 1989 to 2005, most recently serving as Vice President and Chief Financial Officer of Dover Diversified, Inc., a diversified manufacturing company with over 7,000 employees, from 2002 to 2005; Chief Financial Officer of Waukesha Bearings, a leading supplier of fluid film and active magnetic bearings for turbo machinery, from 2001 to 2002; and Executive Vice President of DovaTech, Ltd., a manufacturer of welding equipment from 2000 to 2001. Mr. Caton recently informed us of his intention to retire at the end of fiscal 2009.

We incorporate by reference in this prospectus supplement certain information relating to, among other things, executive officer and director compensation, transactions with related parties and ownership of NIC common stock. See Incorporation of Certain Documents by Reference.



## **Table of Contents**

### **DESCRIPTION OF THE NOTES**

In this Description of Notes, *NIC* refers only to Navistar International Corporation and not to any of its Subsidiaries, as defined herein. The definitions of certain other terms used in this description are set forth throughout the text or under *Certain definitions*.

NIC will issue, and the Initial Subsidiary Guarantor will guarantee, the 8.25% Senior Notes due 2021 (the *Notes*) under an indenture (the *Indenture*) among NIC, the Initial Subsidiary Guarantor and The Bank of New York Mellon Trust Company, N.A., as trustee (the *Trustee*). The terms of the Notes include those set forth in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (the *TIA*).

The following description is a summary of the material terms of the Indenture. It does not, however, restate the Indenture in its entirety. You should read the Indenture because it contains additional information and because it and not this description define your rights as a holder of the Notes. After the Notes have been issued, copies of the Indenture may be obtained by requesting them from NIC at the address indicated under *Where You Can Find More Information*.

### **Brief Description of the Structure and Ranking of the Notes and the Subsidiary Guarantees**

#### ***The Notes***

The Notes will:

be NIC's general unsecured obligations;

be structurally subordinated to all existing and future Indebtedness and other liabilities of Subsidiaries of NIC that do not provide Subsidiary Guarantees;

to the extent not otherwise secured by the assets of NIC, be effectively subordinated to all existing and future secured Indebtedness of NIC to the extent of the assets securing such Indebtedness;

rank equally in right of payment with any and all of NIC's existing and future Indebtedness that is not subordinated in right of payment to the Notes;

rank senior in right of payment to any and all of NIC's future Indebtedness that is subordinated in right of payment to the Notes, including the Convertible Subordinated Notes; and

be guaranteed on a senior basis by the Subsidiary Guarantors.

#### ***The Subsidiary Guarantees***

Each Subsidiary Guarantee will:

be a general unsecured obligation of the Subsidiary Guarantor that granted such Subsidiary Guarantee;



## Edgar Filing: NAVISTAR INTERNATIONAL CORP - Form 424B5

to the extent not otherwise secured by assets of such Subsidiary Guarantor, be effectively subordinated to all existing and future secured Indebtedness of such Subsidiary Guarantor to the extent of the assets securing such Indebtedness;

rank equally in right of payment with any and all of such Subsidiary Guarantor's existing and future Indebtedness that is not subordinated in right of payment to its Subsidiary Guarantee; and

rank senior in right of payment to any and all of such Subsidiary Guarantor's future Indebtedness that is subordinated in right of payment to its Subsidiary Guarantee.

S-40



## **Table of Contents**

### ***General***

Initially, the Notes will only be guaranteed by the Initial Subsidiary Guarantor. In the event of a bankruptcy, liquidation or reorganization of any of these non-guarantor Subsidiaries, the non-guarantor Subsidiaries will likely be required to repay financial and trade creditors before distributing any assets to NIC or a Subsidiary Guarantor.

As of the Issue Date, not all of NIC's Subsidiaries will be Restricted Subsidiaries. All of the Subsidiaries comprising NIC's Financial Services Segment, the DealCor Subsidiaries, the Blue Diamond Truck and Blue Diamond Parts Subsidiaries and Subsidiaries whose principal business is operating a parts and service center shall be Unrestricted Subsidiaries. In addition, subject to the covenant described under the caption "Certain covenants Limitation on Restricted Payments," NIC will be permitted to designate additional Subsidiaries as Unrestricted Subsidiaries. Unrestricted Subsidiaries will not be subject to any of the restrictive covenants in the Indenture and will not Guarantee the Notes. For the nine months ended July 31, 2009 and fiscal 2008, NIC and its Restricted Subsidiaries (including the Initial Subsidiary Guarantor) generated 89% and 92%, respectively, of the net sales of NIC's manufactured products and approximately 84% and 90%, respectively, of NIC's manufacturing operations EBITDA.

As of July 31, 2009, after giving effect to the offering of the Notes, the concurrent offering of Convertible Subordinated Notes and the application of the net proceeds therefrom and after excluding intercompany balances and intercompany guarantees:

NIC and the Initial Subsidiary Guarantor would have had on a combined basis approximately \$1,939 million of Indebtedness outstanding, comprised of (i) approximately \$270 million of senior secured indebtedness, which would have ranked ahead of the notes to the extent of the value of assets securing such indebtedness, (ii) total Pari Passu Debt of \$1,119 million, of which \$1,000 million would have been represented by the Notes, and (iii) \$550 million of Indebtedness that would have been subordinated in right of payment to the Notes;

NIC's Restricted Subsidiaries that have not guaranteed the Notes would have had (i) approximately \$13 million of Indebtedness outstanding; (ii) approximately \$1,805 million of total liabilities, including trade payables and accrued expenses, and (iii) total assets of approximately \$2,781 million; and

NIC's Unrestricted Subsidiaries would have had (i) Indebtedness of approximately \$3,563 million, of which \$3,401 million was Indebtedness of the Financial Services Segment and \$162 million was Indebtedness of the DealCor Subsidiaries; (ii) total liabilities of approximately \$4,007 million, of which \$3,627 million were liabilities of the Financial Services Segment and \$191 million were liabilities of the DealCor Subsidiaries; and (iii) total assets of approximately \$4,788 million, of which \$3,940 million constituted assets of the Financial Services Segment and \$364 million constituted assets of the DealCor Subsidiaries.

Although the Indenture contains limitations on the amount of additional Indebtedness that NIC, the Subsidiary Guarantors and the Restricted Subsidiaries may incur, the amount of such additional Indebtedness could be substantial.

### **Principal, maturity and interest**

NIC is offering \$1,000,000,000 aggregate principal amount of its Notes. The Notes will mature on November 1, 2021 and accrue interest at the rate of 8.25% per annum. Subject to the covenant described under "Certain covenants Limitation on Indebtedness," NIC is permitted to issue additional Notes under the Indenture ("Additional Notes"). The Notes and any Additional Notes that are issued will be treated as a single class for all purposes under the Indenture, including those with respect to waivers, amendments, redemptions and Offers to Purchase.



## **Table of Contents**

Unless the context otherwise requires, references to the Notes for all purposes under the Indenture and in this Description of the Notes include references to any Additional Notes that are issued.

Except as described herein, interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from and including the Issue Date, and will be payable semi-annually in arrears on each Note on May 1 and November 1 of each year, commencing on May 1, 2010. Interest will be payable to Holders of record on each Note in respect of the principal amount thereof outstanding as of the immediately preceding April 15 or October 15, as the case may be.

Interest will be computed on the basis of a 360-day year comprising twelve 30-day months. Interest on overdue principal and interest will accrue at a rate that is 1% higher than the then applicable interest rate on the Notes. In no event will the rate of interest on the Notes be higher than the maximum rate permitted by applicable law.

## **Form of Notes**

The Notes will be issued on the Issue Date only in fully registered form without coupons and only in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

The Notes will be initially in the form of one or more global notes (the global notes). The global notes will be deposited with the Trustee as custodian for the Depository Trust Company (DTC). Ownership of interests in the global notes, referred to in this description as book-entry interests, will be limited to persons that have accounts with DTC or their respective participants. The terms of the Indenture will provide for the issuance of definitive registered Notes in certain circumstances. Please see the section entitled Book-Entry, Delivery and Form.

## **Transfer and Exchange**

A Holder may transfer or exchange Notes in accordance with the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents. No service charge will be made for any registration of transfer, exchange or redemption of the Notes, but NIC may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection with any such registration of transfer or exchange.

NIC is not required to transfer or exchange any Note selected for redemption. Also, NIC is not required to transfer or exchange any Note for a period of 15 days before a selection of Notes to be redeemed.

## **Payments on the Notes; Paying Agent and Registrar**

If a Holder has given wire transfer instructions to NIC at least 10 Business Days prior to the applicable payment date, NIC will pay all principal, interest and premium and Additional Interest, if any, on that Holder's Notes in accordance with those instructions. All other payments on Notes will be made at the office or agency of the Paying Agent and Registrar within the City and State of New York unless NIC elects to make interest payments by check mailed to the Holders at their addresses set forth in the register of Holders; *provided* that all payments of principal, premium, if any, and interest (including Additional Interest, if any), with respect to the Global Notes registered in the name of or held by DTC or its nominee and will be made by wire transfer of immediately available funds to the account specified by DTC.

The Trustee will initially act as Paying Agent and Registrar. NIC may change the Paying Agent or Registrar without prior notice to the Holders, and NIC or any of its Subsidiaries may act as Paying Agent or Registrar.

The registered Holder of a Note will be treated as the owner of it for all purposes.



## **Table of Contents**

### **Subsidiary Guarantees**

#### ***General***

The Notes will be initially guaranteed by NIC's wholly-owned Restricted Subsidiary, Navistar, Inc. Under the Indenture, the Initial Subsidiary Guarantor has agreed to guarantee the due and punctual payment of all amounts payable under the Notes, including principal, premium, if any, and interest (including Additional Interest, if any) payable under the Notes. The Indenture will require any other Restricted Subsidiary that Guarantees Indebtedness of NIC or any Subsidiary Guarantor (other than to the extent such Restricted Subsidiary is a co-borrower with respect to Indebtedness permitted pursuant to clause (3) of *Certain covenants Limitation on Incurrence of Indebtedness*) to provide a Subsidiary Guarantee. Please see the section entitled *Certain covenants Limitation on Guarantees by Restricted Subsidiaries*.

Each Subsidiary Guarantee of a Subsidiary Guarantor will be a general unsecured obligation of that Subsidiary Guarantor. The obligations of each Subsidiary Guarantor under its Subsidiary Guarantee will be limited to an amount not to exceed the maximum amount that can be guaranteed by such Subsidiary Guarantor by law or without resulting in its obligations under its Subsidiary Guarantee being voidable or unenforceable under applicable laws relating to fraudulent transfer, or under similar laws affecting the rights of creditors generally. Each Subsidiary Guarantor that makes a payment or distribution under its Subsidiary Guarantee will be entitled to contribution from any other Subsidiary Guarantor.

#### ***Release of the Subsidiary Guarantees***

A Subsidiary Guarantee of a Subsidiary Guarantor will be automatically and unconditionally released (and thereupon shall terminate and be discharged and be of no further force and effect):

- (1) in connection with any sale or other disposition (including by merger or otherwise) of the Capital Stock of the Subsidiary Guarantor after which such Subsidiary Guarantor is no longer a Subsidiary of NIC to a Person that is not (either before or after giving effect to such transaction) an Affiliate of NIC, if the sale of all such Capital Stock of that Subsidiary Guarantor complies with the applicable provisions of the Indenture;
- (2) if NIC properly designates the Subsidiary Guarantor as an Unrestricted Subsidiary under the Indenture;
- (3) solely in the case of a Subsidiary Guarantee created pursuant to the covenant described under *Certain covenants Limitation on Guarantees by Restricted Subsidiaries*, upon the release or discharge of the guarantee that resulted in the creation of such Subsidiary Guarantee pursuant to that covenant, except a discharge or release by or as a result of payment under such guarantee;
- (4) upon a Legal Defeasance or satisfaction and discharge of the Indenture that complies with the provisions under *Defeasance or covenant defeasance of the indenture* or *Satisfaction and discharge*; or
- (5) upon payment in full of the aggregate principal amount of all Notes then outstanding and all other financial obligations under the Indenture and the Notes then due and owing.

Upon any occurrence giving rise to a release of a Subsidiary Guarantee as specified above, the Trustee will execute any documents reasonably required in order to evidence or effect such release, discharge and termination in respect of such Subsidiary Guarantee. Neither NIC nor any Subsidiary Guarantor will be required to make a notation on the Notes to reflect any such Subsidiary Guarantee or any such release, termination or discharge.

#### **Optional redemption**

At any time prior to November 1, 2012, NIC may redeem up to 35% of the aggregate principal amount of Notes issued under the Indenture (including any Additional Notes) at a redemption price of 108.250% of the principal amount thereof, plus accrued and unpaid interest and Additional Interest, if any, thereon to the



## **Table of Contents**

redemption date, subject to the rights of Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date, with the Net Cash Proceeds of one or more Public Equity Offerings; *provided* that:

- (1) at least 65% of the aggregate principal amount of Notes issued under the Indenture (including any Additional Notes) remains outstanding immediately after the occurrence of such redemption (excluding Notes held by NIC or its Affiliates); and
- (2) the redemption must occur within 60 days of the date of the closing of such Public Equity Offering.

On or after November 1, 2014, NIC may redeem all or a part of the Notes, at the redemption prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest and Additional Interest, if any, thereon, to the applicable redemption date, subject to the rights of Holders of the Notes on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on November 1 of the years indicated below:

<b>Year</b>	<b>Percentage</b>
2014	104.125%
2015	102.750%
2016	101.375%
2017 and thereafter	100.000%

Not more than once during each twelve-month period ending on November 1 of 2010, 2011, 2012, 2013 and 2014, NIC may redeem up to \$50 million in principal amount of the Notes in each such twelve-month period, upon not less than 30 nor more than 60 days' notice, at a redemption price equal to 103% of the principal amount of the Notes redeemed, plus accrued and unpaid interest, if any, to the date of redemption (subject to the rights of holders of Notes on the relevant record date to receive interest on the relevant Interest Payment Date).

In addition, at any time prior to November 1, 2014, NIC may redeem the Notes, in whole or in part, at a redemption price equal to 100% of the principal amount thereof plus the Applicable Premium, plus accrued and unpaid interest, if any, to the redemption date (subject to the right of Holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date).

If less than all of the Notes are to be redeemed at any time, the Trustee will select Notes for redemption as follows:

- (1) in compliance with the requirements of the principal national securities exchange, if any, on which the applicable Notes are listed; or
- (2) if the applicable Notes are not so listed, on a pro rata basis, by lot or by such other method as the Trustee will deem fair and appropriate.

No Notes of \$2,000 or less will be redeemed in part. Notices of redemption will be mailed by first class mail, at least 30 but not more than 60 days before the redemption date, to each Holder of the Notes to be redeemed at its registered address. Notices of redemption may not be conditional.

If any Note is to be redeemed in part only, the notice of redemption that relates to that Note will state the portion of the principal amount thereof to be redeemed. A new Note in principal amount equal to the unredeemed portion of the original Note will be issued in the name of the Holder thereof upon cancellation of the original Note. Notes called for redemption become due on the date fixed for redemption.

### **Mandatory redemption; offers to purchase; open market purchases**

NIC is not required to make any mandatory redemption or sinking fund payments with respect to the Notes. However, under certain circumstances, NIC may be required to offer to purchase the Notes as described under



## **Table of Contents**

the captions Certain covenants Change of Control and Certain covenants Limitation on Certain Asset Dispositions. NIC and its Restricted Subsidiaries may at any time and from time to time purchase Notes in the open market or otherwise.

### **Certain covenants**

***Application of Fall Away Covenants.*** Following the first day (the *Suspension Period* ) that :

- (1) the Notes have been assigned an Investment Grade rating by both Rating Agencies; and
- (2) no Default under the Indenture has occurred and is continuing, NIC and its Restricted Subsidiaries will not be subject to the following agreements and covenants contained in the Indenture:

Limitation on Incurrence of Indebtedness,  
Limitation on Restricted Payments,  
Limitation on Certain Asset Dispositions,  
Limitation on Payment Restrictions Affecting Restricted Subsidiaries,  
Limitation on Transactions with Affiliates,  
Limitation on Guarantees by Restricted Subsidiaries, and

clause (2) of the first paragraph of Merger, Consolidation, Etc. (collectively, the *Suspended Covenants* )

In the event that NIC and its Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the foregoing and on any subsequent date (the *Reversion Date* ) one or both of the Rating Agencies withdraws its Investment Grade rating or downgrades the rating assigned to the notes below an Investment Grade rating, then NIC and its Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants with respect to future events. The period of time between the Suspension Date and the Reversion Date is referred to in this description as the *Suspension Period*. Notwithstanding that the Suspended Covenants may be reinstated, no Default or Event of Default will be deemed to have occurred as a result of a failure to comply with the Suspended Covenants during the Suspension Period. During any Suspension Period, NIC may not designate any Subsidiary to be an Unrestricted Subsidiary unless NIC would have been permitted to designate such Subsidiary to be an Unrestricted Subsidiary if a Suspension Period had not been in effect for any period.

On the Reversion Date, all Indebtedness Incurred during the Suspension Period will be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under clause (2) of Limitation on Incurrence of Indebtedness . Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Limitation on Restricted Payments will be made as though the covenant described under Limitation on Restricted Payments had been in effect since the Issue Date but not during the Suspension Period. Accordingly, Restricted Payments made during the Suspension Period will not reduce the amount available to be made as Restricted Payments under clause (3) of the first paragraph of Limitation on Restricted Payments and items specified in subclauses (a) through (e) of clause (3) of the first paragraph of Limitation on Restricted Payments will not increase the amount available to be made thereunder. For purposes of determining compliance with the Limitation on Certain Asset Dispositions , the Net Unutilized Net Available Proceeds from all Asset Dispositions not applied in accordance with the covenant will be deemed to be reset to zero after the Reversion Date.

In addition, the Indenture also permits, without causing a Default or Event of Default, NIC and its Restricted Subsidiaries to honor any contractual commitments to take actions in the future after any date on which the Notes no longer have an Investment Grade rating from both of the Rating Agencies as long as such contractual commitments were entered into during the Suspension Period and not in anticipation of the Notes no longer having an Investment Grade rating from both of the Rating Agencies.

***Limitation on Liens.*** The Indenture provides that NIC will not, and will not cause or permit any of its Restricted Subsidiaries to, create, incur, assume or suffer to exist any Liens upon any of their respective



## **Table of Contents**

properties or assets (including, without limitation, any asset in the form of the right to receive payments, fees or other consideration or benefits) whether owned on the Issue Date or acquired after the Issue Date, other than:

(1) Liens granted by NIC or a Subsidiary Guarantor on property or assets of NIC or a Subsidiary Guarantor securing Indebtedness of NIC or a Subsidiary Guarantor that is permitted by the Indenture and that is *pari passu* with the Notes or the Subsidiary Guarantee; *provided*, that the Notes or the Subsidiary Guarantee, as the case may be, are secured on an equal and ratable basis with the Indebtedness secured by such Liens for so long as such Indebtedness is so secured;

(2) Liens granted by NIC or a Subsidiary Guarantor on property or assets of NIC or a Subsidiary Guarantor securing Indebtedness of NIC or a Subsidiary Guarantor that is permitted by the Indenture and that is subordinated to the Notes or the Subsidiary Guarantee, *provided*, that the Notes, or the Subsidiary Guarantee as the case may be, are secured by Liens ranking prior to such Liens;

(3) Permitted Liens;

(4) Liens (including extensions, replacements and renewals thereof) in respect of Acquired Indebtedness permitted by the Indenture; *provided*, that the Liens in respect of such Acquired Indebtedness secured such Acquired Indebtedness at the time of the incurrence of such Acquired Indebtedness and such Liens and the Acquired Indebtedness were not incurred by NIC, any of its Restricted Subsidiaries or by the Person being acquired or from whom the assets were acquired in connection with, or in anticipation of, the incurrence of such Acquired Indebtedness by NIC or any of its Restricted Subsidiaries, and *provided, further* that such Liens in respect of such Acquired Indebtedness do not extend to or cover any property or assets of NIC or of any Restricted Subsidiary of NIC other than the property or assets that secured the Acquired Indebtedness prior to the time such Indebtedness became Acquired Indebtedness of NIC or any of its Restricted Subsidiaries;

(5) Liens granted in connection with any Qualified Securitization Transaction;

(6) Liens arising from claims of holders of Indebtedness against funds held in a defeasance trust for the benefit of such holders; and

(7) Liens on property or assets of NIC or any Restricted Subsidiary securing Indebtedness incurred pursuant to clauses (3), (7) and (26) of the covenant described below under Limitation on Incurrence of Indebtedness.

***Limitation on Incurrence of Indebtedness.*** The Indenture provides that NIC will not, and will not cause or permit any of its Restricted Subsidiaries to incur, directly or indirectly, any Indebtedness, except:

(1) Indebtedness of NIC or any Subsidiary Guarantor, if immediately after giving effect to the incurrence of such Indebtedness and the receipt and application of the net proceeds thereof, the Consolidated Cash Flow Ratio of NIC for the four full fiscal quarters for which quarterly or annual financial statements are available next preceding the incurrence of such Indebtedness would be greater than 2.0 to 1.0;

(2) Indebtedness outstanding on the Issue Date;

(3) Indebtedness of NIC or any Restricted Subsidiary of NIC under Credit Facilities in an aggregate amount at any one time outstanding pursuant to this clause (3) not to exceed the greater of (a) \$200.0 million or (b) the sum of (i) 85.0% of the total book value of accounts receivable and (ii) 60% of the total book value of inventory, in each case as reflected on NIC's and its Restricted Subsidiaries' most recent consolidated financial statements prepared in accordance with GAAP; *provided* that amount in clause (b) of this clause (3) shall not exceed \$1,000.0 million;

(4) Indebtedness owed by NIC to any Restricted Subsidiary of NIC or Indebtedness owed by a Restricted Subsidiary of NIC to NIC or a Restricted Subsidiary of NIC; *provided*, that, upon either

(a) the transfer or other disposition by such Restricted Subsidiary or NIC of any Indebtedness so permitted under this clause (4) to a Person other than NIC or another Restricted Subsidiary of NIC or



## **Table of Contents**

(b) the issuance (other than directors' qualifying shares), sale, transfer or other disposition of shares of Capital Stock or other ownership interests (including by consolidation or merger) of such Restricted Subsidiary to a Person other than NIC or another such Restricted Subsidiary of NIC,

the provisions of this clause (4) shall no longer be applicable to such Indebtedness and such Indebtedness shall be deemed to have been incurred at the time of any such issuance, sale, transfer or other disposition, as the case may be;

(5) Indebtedness of NIC or any of its Restricted Subsidiaries under any Interest Rate Protection Agreement, Commodity Agreement or Currency Agreement, in each case incurred in the ordinary course of business;

(6) Acquired Indebtedness, if either (i) NIC would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to clause (1) above after giving pro forma effect to the relevant acquisition and incurrence of such Acquired Indebtedness or (ii) (a) NIC's Consolidated Cash Flow Ratio for the most recent four full fiscal quarters for which financial statements are available after giving pro forma effect to the relevant acquisition and incurrence of such Acquired Indebtedness as of the beginning of such four quarter period would be greater than (b) NIC's Consolidated Cash Flow Ratio for such four quarter period as of immediately prior to such acquisition and incurrence of such Acquired Indebtedness;

(7) Indebtedness incurred by NIC or any of its Restricted Subsidiaries constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business, including, without limitation, letters of credit in response to workers' compensation claims or self-insurance;

(8) Indebtedness arising from agreements of NIC or any of its Restricted Subsidiaries providing for adjustment of purchase price, earn-out or other similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or a Subsidiary of NIC;

(9) obligations in respect of performance and surety bonds and completion guarantees provided by NIC or any of its Restricted Subsidiaries in the ordinary course of business;

(10) Indebtedness consisting of notes issued to employees, officers or directors in connection with the redemption or repurchase of Capital Stock held by such Persons in an aggregate amount not in excess of \$10.0 million at any time outstanding;

(11) Indebtedness consisting of take-or-pay obligations contained in supply agreements entered into by NIC or its Restricted Subsidiaries in the ordinary course of business;

(12) the guarantee by NIC or any Restricted Subsidiary of Indebtedness of NIC or any Restricted Subsidiary permitted to be incurred under another provision of this covenant;

(13) Indebtedness incurred to renew, extend, refinance or refund (collectively for purposes of this clause (13) to "refund") any Indebtedness incurred pursuant to clauses (1), (2) or (6) above, this clause (13) or clauses (14) and (15) below (including any successive refundings); *provided*, that:

(a) such Indebtedness does not exceed the principal amount (or accreted amount, if less) of Indebtedness so refunded plus the amount of any premium required to be paid in connection with such refunding pursuant to the terms of the Indebtedness refunded or the amount of any premium reasonably determined by NIC as necessary to accomplish such refunding by means of a tender offer, exchange offer, or privately negotiated repurchase, plus the expenses of NIC or such Restricted Subsidiary incurred in connection therewith and

(b) (I) in the case of any refunding of Indebtedness that is *pari passu* with the Notes, such refunding Indebtedness is made *pari passu* with or subordinate in right of payment to such Notes, and, in the case of any refunding of Indebtedness that is subordinate in right of payment to the Notes, such refunding Indebtedness is subordinate in right of payment to such Notes on terms no less favorable to the Holders than those contained in the Indebtedness being refunded,



## Table of Contents

(II) in either case, the refunding Indebtedness by its terms, or by the terms of any agreement or instrument pursuant to which such Indebtedness is issued, does not have an Average Life that is less than the remaining Average Life of the Indebtedness being refunded (in the event that any portion of such refunding Indebtedness has a scheduled maturity prior to the Notes) and does not permit redemption or other retirement (including pursuant to any required offer to purchase to be made by NIC or any of its Restricted Subsidiaries) of such Indebtedness at the option of the holder thereof prior to the final stated maturity of the Indebtedness being refunded, other than a redemption or other retirement at the option of the holder of such Indebtedness (including pursuant to a required offer to purchase made by NIC or any of its Restricted Subsidiaries) which is conditioned upon a change of control of NIC pursuant to provisions substantially similar to those contained in the Indenture described under **Change of Control** below or an asset sale pursuant to provisions substantially similar to those contained in the Indenture described under **Limitation on Certain Asset Dispositions**, and

(III) Indebtedness of a Restricted Subsidiary that is not a Subsidiary Guarantor may not be incurred to refund any Indebtedness of NIC;

(14) Indebtedness of NIC under the Notes outstanding on the Issue Date and the related Subsidiary Guarantee;

(15) Indebtedness of NIC under the Convertible Subordinated Notes and any obligations of NIC or any of its Restricted Subsidiaries with respect to any hedging and other arrangements entered into by NIC or any of its Restricted Subsidiaries to increase the effective conversion premium with respect to such Convertible Subordinated Notes;

(16) the consummation of any Qualified Securitization Transaction;

(17) Attributable Indebtedness relating to any Sale/Leaseback Transaction with respect to the purchase of tooling and related manufacturing equipment in the ordinary course of business;

(18) the incurrence by NIC or any Restricted Subsidiary of Indebtedness (including Capital Lease Obligations) to finance the purchase, lease or improvement of property (real or personal) or equipment (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) in an aggregate principal amount outstanding at any time not to exceed the greater of (a) \$75.0 million or (b) 2.0% of Consolidated Net Tangible Assets at the time of any incurrence thereof;

(19) the accrual of interest, accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Capital Stock or Preferred Stock in the form of additional shares of the same class of Disqualified Capital Stock or Preferred Stock; *provided* in each such case that the amount thereof is included in Consolidated Fixed Charges of NIC as accrued;

(20) Indebtedness under the Support Agreement and the Master Intercompany Agreements;

(21) Indebtedness consisting of guarantees by NIC or its Restricted Subsidiaries with respect to obligations with respect to the Financial Services Segment in Mexico; *provided* that the aggregate principal amount of such guarantees shall not exceed the aggregate principal amount of such guarantees as of the Issue Date;

(22) Indebtedness of NIC or any Restricted Subsidiary arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; *provided, however*, that such Indebtedness is extinguished within five business days after incurrence;

(23) Indebtedness of NIC or any Restricted Subsidiary to the extent the net proceeds thereof are promptly deposited to defease the Notes as described below under **Defeasance or Covenant Defeasance of the Indenture** or **Satisfaction and Discharge**;

(24) Indebtedness that is subordinated in right of payment to the Notes or the Subsidiary Guarantee, as the case may be, not to exceed in the aggregate \$200.0 million at any time outstanding;



## **Table of Contents**

(25) Indebtedness consisting of guarantees of Indebtedness in lieu of capital contributions, purchases of Capital Stock or other Investments; *provided* such guarantee constitutes (a) a Restricted Payment permitted pursuant to the first paragraph of the covenant described below under caption *Limitation on Restricted Payments* or clause (16) of the second paragraph thereof or (b) a Permitted Investment pursuant to clauses (15) or (16) of the definition of *Permitted Investments* and in each case such guarantee reduces the amounts available to make other Restricted Payments or Permitted Investments, as the case may be;

(26) Indebtedness of any Foreign Subsidiary incurred for working capital in the ordinary course of business; and

(27) Indebtedness of NIC or any of its Restricted Subsidiaries not otherwise permitted to be incurred pursuant to clauses (1) through (26) above, which, together with any other outstanding Indebtedness incurred pursuant to this clause (27), has an aggregate principal amount not in excess of \$150.0 million at any time outstanding.

For purposes of determining compliance with this covenant, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Permitted Indebtedness described in clauses (1) through (27) above, NIC shall, in its sole discretion, classify such item of Indebtedness and may divide and classify such Indebtedness in more than one of the types of Indebtedness described, and may later reclassify any item of Indebtedness described in clauses (1) through (27) above (*provided* that at the time of reclassification it meets the criteria in such category or categories). In addition, for purposes of determining any particular amount of Indebtedness under this covenant, guarantees, Liens or letter of credit obligations supporting Indebtedness otherwise included in the determination of such particular amount shall not be included so long as incurred by a Person that could have incurred such Indebtedness.

For purposes of determining compliance with any dollar-denominated restriction on the incurrence of Indebtedness denominated in a foreign currency, the dollar-equivalent principal amount of such Indebtedness incurred pursuant thereto shall be calculated based on the relevant currency exchange rate in effect on the date that such Indebtedness was incurred

If Indebtedness is secured by a letter of credit that serves only to secure such Indebtedness, then the total amount deemed incurred shall be equal to the greater of (1) the principal of such Indebtedness and (2) the amount that may be drawn under such letter of credit.

***Limitation on Restricted Payments.*** The Indenture provides that NIC will not, and will not cause or permit any of its Restricted Subsidiaries to directly or indirectly:

(a) declare or pay any dividend, or make any distribution of any kind or character (whether in cash, property or securities), in respect of any class of its Capital Stock or to the holders thereof in their capacity as stockholders, excluding any (a) dividend or distributions payable solely in shares of its Qualified Capital Stock or in options, warrants or other rights to acquire its Qualified Capital Stock or (b) in the case of any Restricted Subsidiary of NIC, dividends or distributions payable to NIC or a Restricted Subsidiary of NIC or on a pro rata basis to all holders of the Capital Stock of such Restricted Subsidiary;

(b) purchase, redeem, or otherwise acquire or retire for value shares of Capital Stock of NIC or any options, warrants or rights to purchase or acquire shares of Capital Stock of NIC, excluding any debt security that is convertible into, or exchangeable for, Capital Stock of NIC and any such shares of Capital Stock, options, warrants, rights or securities which are owned by NIC or a Restricted Subsidiary of NIC;

(c) make any Investment (other than a Permitted Investment); or

(d) redeem, defease, repurchase, retire or otherwise acquire or retire for value, prior to any scheduled maturity, repayment or sinking fund payment, Indebtedness (other than Indebtedness permitted under clause (4) of the covenant described under *Limitation on Incurrence of Indebtedness* ) which is subordinate in right of payment to the Notes or any Subsidiary Guarantee (other than the redemption, defeasance, repurchase,



## Table of Contents

retirement or other acquisition or retirement satisfying a principal installment, sinking fund or maturity, in each case due within one year of the date of such redemption, defeasance, repurchase, retirement or other acquisition or retirement (each of the transactions described in clauses (a) through (d) (other than any exception to any such clause) being a *Restricted Payment* ),

if at the time thereof:

(1) an Event of Default, or an event that with the passing of time or giving of notice, or both, would constitute an Event of Default, shall have occurred and be continuing, or

(2) upon giving effect to such Restricted Payment, NIC could not incur at least \$1.00 of additional Indebtedness pursuant to the terms of the Indenture described in clause (1) of *Limitation on Incurrence of Indebtedness* above, or

(3) upon giving effect to such Restricted Payment, the aggregate of all Restricted Payments made on or after the Issue Date exceeds the sum (without duplication) of:

(a) 50% of cumulative Consolidated Net Income of NIC (or, in the case cumulative Consolidated Net Income of NIC shall be negative, less 100% of such deficit) for the period (treated as a single accounting period) from August 1, 2009 through the last day of NIC's most recently ended fiscal quarter for which financial statements are available; *plus*

(b) 100% of the aggregate Net Cash Proceeds and the fair market value of property or marketable securities received after the Issue Date, from the issuance of Qualified Capital Stock of NIC and warrants, rights or options on Qualified Capital Stock of NIC (other than in respect of any such issuance to a Subsidiary of NIC) and the principal amount of Indebtedness of NIC or a Subsidiary of NIC that has been converted into or exchanged for Qualified Capital Stock of NIC after the Issue Date; *plus*

(c) in the case of the disposition or repayment of any Investment constituting a Restricted Payment made after the Issue Date, an amount equal to the return of capital with respect to such Investment, less the cost of the disposition of such Investment (including any payments made on guarantees constituting Investments); *plus*

(d) 100% of the aggregate Net Cash Proceeds received after the Issue Date from Unrestricted Subsidiaries resulting from the receipt of dividends or other distributions or payments, repayments of loans or advances or other transfers of assets or proceeds from the disposition of Capital Stock, in each case to NIC or any Restricted Subsidiary from, or with respect to, interests in Unrestricted Subsidiaries; *provided* that any such amounts included in this paragraph (d) shall not be included in Consolidated Net Income of NIC for purposes of paragraph (a) above; *plus*

(e) the portion (proportionate to NIC's equity interest in such Subsidiary) of the fair market value of the net assets of an Unrestricted Subsidiary at the time such Unrestricted Subsidiary is designated a Restricted Subsidiary not to exceed the amount of Investments made by NIC or any Restricted Subsidiary (and treated as a Restricted Payment) in such Unrestricted Subsidiary.

For purposes of determining the amount available for or expended for Restricted Payments under this clause (3), property other than cash shall be valued at its fair market value and shall be valued in good faith and set forth in an officers' certificate delivered to the Trustee when the fair market value of such property exceeds \$25.0 million.

Notwithstanding the foregoing, the provisions set forth in the immediately preceding paragraph will not prohibit:

(1) any dividend on any class of Capital Stock of NIC paid within 60 days after the declaration thereof if, on the date when the dividend was declared, NIC could have paid such dividend in accordance with the provisions of the Indenture;

(2) the renewal, extension, refunding or refinancing of any Indebtedness otherwise permitted pursuant to the terms of the Indenture described in clause (13) of *Limitation on Incurrence of Indebtedness* above;



## **Table of Contents**

- (3) the exchange or conversion of any Indebtedness of NIC or any of its Restricted Subsidiaries for or into Qualified Capital Stock of NIC;
- (4) so long as no Default or Event of Default has occurred and is continuing, any Investment made in exchange for or out of the Net Cash Proceeds of a substantially concurrent sale, or a sale within 60 days of such Investment (other than to a Subsidiary of NIC) of Qualified Capital Stock of NIC; *provided*, that the proceeds of such sale of Qualified Capital Stock shall not be (and have not been) included in clause (3) of the preceding paragraph;
- (5) the redemption, repurchase, retirement or other acquisition of any Capital Stock of NIC or the payment of any dividend or other distribution in respect of any class of its Capital Stock in exchange for or out of the Net Cash Proceeds of the substantially concurrent sale, or a sale within 60 days of such redemption, repurchase, retirement, other acquisition, dividend or other distribution (other than to a Subsidiary of NIC) of Qualified Capital Stock of NIC; *provided*, that the proceeds of such sale of Qualified Capital Stock shall not be (and have not been) included in clause (3) of the preceding paragraph;
- (6) so long as no Event of Default has occurred and is continuing, the redemption, repurchase, retirement or other acquisition of any subordinated Indebtedness of NIC or a Subsidiary Guarantor in exchange for or out of the Net Cash Proceeds of the substantially concurrent sale, or a sale within 60 days of such redemption, repurchase, retirement, or other acquisition (other than to a Subsidiary of NIC) of Qualified Capital Stock of NIC; *provided*, that the proceeds of such sale of Qualified Capital Stock shall not be (and have not been) included in clause (3) of the preceding paragraph;
- (7) cash payments (a) made with respect to the hedging arrangements entered into by NIC or any of its Restricted Subsidiaries to increase the effective conversion premium of the Convertible Subordinated Notes, (b) made to net share settle Convertible Subordinated Notes in an amount not to exceed the principal amount thereof and (c) made in lieu of the issuance of fractional shares in connection with the conversion of the Convertible Subordinated Notes;
- (8) the declaration and payment of dividends to holders of any class of Disqualified Capital Stock of NIC or a Restricted Subsidiary of NIC or Preferred Stock of any Restricted Subsidiary of NIC issued after the Issue Date; *provided*, that such Disqualified Capital Stock or Preferred Stock was issued in accordance with the covenant described in Limitation on Incurrence of Indebtedness above and such dividends constitute Consolidated Fixed Charges;
- (9) so long as no Event of Default has occurred and is continuing, any purchase or redemption or other retirement for value of Capital Stock of NIC (including purchases of stock from current or former employees, employees' spouses, estates or estate planning vehicles in accordance with the terms of employee stock purchase plans) pursuant to any shareholders agreement, management agreement or employee stock option agreement in accordance with the provisions of any such arrangement in an amount in a calendar year not to exceed \$15.0 million (with unused amounts in any calendar year carried over to succeeding years subject to a maximum of \$25.0 million in any calendar year);
- (10) repurchases of Capital Stock deemed to occur upon the exercise of stock options or warrants if such Capital Stock represents a portion of the exercise price thereof or tax withholdings related to the exercise of stock options or warrants or in connection with the vesting of restricted stock;
- (11) payments not to exceed \$10.0 million per annum in the aggregate to enable NIC to make payments to holders of its Capital Stock in lieu of issuance of fractional shares of its Capital Stock;
- (12) so long as no Event of Default has occurred and is continuing the redemption of any other stock purchase rights under a rights plan in an aggregate amount not to exceed \$2.5 million;
- (13) so long as no Event of Default has occurred and is continuing, Investments in Permitted Joint Ventures and designations of Restricted Subsidiaries as Unrestricted Subsidiaries; *provided*, that after giving pro forma effect to such Investment or such designation, NIC could incur at least \$1.00 of additional Indebtedness pursuant to the terms of the Indenture described in clause (1) of Limitation on Incurrence of Indebtedness above;



## **Table of Contents**

(14) so long as no Event of Default has occurred and is continuing, the repurchase, redemption, acquisition or retirement of subordinated Indebtedness with Unutilized Net Available Proceeds remaining after an Offer to Purchase pursuant to the covenant described under the caption Limitation on Certain Asset Dispositions;

(15) so long as no Event of Default has occurred and is continuing, the repurchase, redemption, acquisition or retirement of any subordinated Indebtedness at a price not greater than 101% of the principal amount thereof (together with accrued and unpaid interest) following a Change of Control pursuant to provisions similar to those described under Change of Control ; *provided* that NIC shall have complied with the provisions under Change of Control and have purchased all Notes validly tendered and not withdrawn; and

(16) if no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof, any other Restricted Payment which, together with all other Restricted Payments made pursuant to this clause (16), does not to exceed \$100.0 million in the aggregate since the Issue Date.

Each Restricted Payment described in clauses (1), (7), (9), (13), (14) and (15) of the previous sentence shall be taken into account (and the Restricted Payments described in the remaining clauses shall not be taken into account) for purposes of computing the aggregate amount of all Restricted Payments made pursuant to clause (3) of the preceding paragraph.

For purposes of determining compliance with this covenant, in the event that a proposed Restricted Payment (or portion thereof) meets the criteria of more than one of the categories of Restricted Payments described in clauses (1) through (16) in paragraph (b) above, or is entitled to be incurred pursuant to paragraph (a) above, NIC will be entitled to classify such Restricted Payment (or portion thereof) on the date of its payment in any manner that complies with this covenant.

***Limitation on Certain Asset Dispositions.*** The Indenture provides that NIC will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, make one or more Asset Dispositions unless:

(1) NIC or the Restricted Subsidiary, as the case may be, receives consideration for such Asset Disposition at least equal to the fair market value of the assets sold or disposed of (as determined in good faith by the Board of Directors of NIC or a member of senior management of NIC);

(2) not less than 75% of the consideration for the disposition consists of cash or Cash Equivalents or the assumption of Indebtedness (other than non-recourse Indebtedness, intercompany Indebtedness or any Indebtedness subordinated to the Notes) of NIC or such Restricted Subsidiary or other obligations relating to such assets (and release of NIC or such Restricted Subsidiary from all liability on the Indebtedness or other obligations assumed); and

(3) all Net Available Proceeds, less any amounts invested or committed to be invested within 360 days of such Asset Disposition in non-current assets related to the business of NIC (including capital expenditures or the Capital Stock of another Person (other than NIC or any Person that is a Restricted Subsidiary of NIC immediately prior to such investment); *provided*, that immediately after giving effect to any such investment (and not prior thereto) such Person shall be a Restricted Subsidiary of NIC) are applied, on or prior to the 360th day after such Asset Disposition (unless and to the extent that NIC shall determine to make an Offer to Purchase), either to

(a) the permanent reduction and prepayment of any secured Indebtedness of NIC or a Subsidiary Guarantor (other than Indebtedness which is expressly subordinate to the Notes) then outstanding (including a permanent reduction of commitments in respect thereof) or

(b) the permanent reduction and repayment of any Indebtedness of any Restricted Subsidiary of NIC that is not a Subsidiary Guarantor then outstanding (including a permanent reduction of commitments in respect thereof).



## **Table of Contents**

The 361st day after such Asset Disposition shall be deemed to be the *Asset Sale Offer Trigger Date*, and the amount of Net Available Proceeds from Asset Dispositions otherwise subject to the preceding provisions not so applied or as to which NIC has determined not to so apply shall be referred to as the *Unutilized Net Available Proceeds*. Within fifteen days after the Asset Sale Offer Trigger Date, NIC shall make an Offer to Purchase the outstanding Notes at a purchase price in cash equal to 100% of their principal amount plus any accrued and unpaid interest thereon to the Purchase Date. Notwithstanding the foregoing, NIC may defer making any Offer to Purchase outstanding Notes until there are aggregate Unutilized Net Available Proceeds equal to or in excess of \$25.0 million (at which time, the amount in excess of \$25.0 million, shall be applied as required pursuant to this paragraph). Pending application of the Unutilized Net Available Proceeds pursuant to this covenant, such Unutilized Net Available Proceeds shall be invested in any manner not otherwise prohibited by this Indenture or applied temporarily to reduce any Indebtedness of NIC or a Subsidiary Guarantor (other than Indebtedness which is expressly subordinated in right of payment to the Notes).

If any Indebtedness of NIC or any of its Restricted Subsidiaries ranking *pari passu* with the Notes requires that prepayment of, or an offer to prepay, such Indebtedness be made with any Net Available Proceeds, NIC may apply such Net Available Proceeds pro rata (based on the aggregate principal amount of the Notes then outstanding and the aggregate principal amount (or accreted value, if less) of all such other Indebtedness then outstanding) to the making of an Offer to Purchase the Notes in accordance with the foregoing provisions and the prepayment or the offer to prepay such *pari passu* Indebtedness. Any remaining Net Available Proceeds following the completion of the required Offer to Purchase may be used by NIC for any other purpose (subject to the other provisions of the Indenture) and the amount of Net Available Proceeds then required to be otherwise applied in accordance with this covenant shall be reset to zero, subject to any subsequent Asset Disposition. These provisions will not apply to a transaction consummated in compliance with the provisions of the Indenture described under Merger, Consolidation, Etc. below.

For purposes of clause (2) of this covenant, the following will be deemed to be cash: (a) the amount of any notes, securities or other similar obligations received by NIC or any Restricted Subsidiary from such transferee that are immediately converted, sold or exchanged (or are converted, sold or exchanged within 90 days of the related Asset Disposition) by the Company or the Restricted Subsidiaries into cash or Cash Equivalents in an amount equal to the Net Cash Proceeds realized upon such conversion, sale or exchange and (b) Qualified Non-Cash Proceeds.

Notwithstanding the foregoing, the provisions of this covenant shall not apply to any Sale/Leaseback Transaction with respect to the purchase of tooling and related manufacturing equipment in the ordinary course of business.

In the event that NIC makes an Offer to Purchase the Notes, NIC shall comply with any applicable securities laws and regulations, including any applicable requirements of Section 14(e) of, and Rule 14e-1 under, the Exchange Act and any violation of the provisions of the Indenture relating to such Offer to Purchase occurring as a result of such compliance shall not be deemed an Event of Default or an event that with the passing of time or giving of notice, or both, would constitute an Event of Default.

NIC's ability to repurchase the Notes may be limited by other then-existing borrowing agreements of NIC and its Restricted Subsidiaries. There can be no assurance that NIC will be able to obtain such a consent or a waiver of such limitations.

***Limitation on Sale/Leaseback Transactions.*** The Indenture provides that NIC shall not, and shall not cause or permit any Restricted Subsidiary to, enter into any Sale/Leaseback Transaction with respect to any property unless:

(1) NIC or such Restricted Subsidiary would be entitled to incur Indebtedness in an amount equal to the Attributable Indebtedness with respect to such Sale/Leaseback Transaction pursuant to any provision of the covenant described under the caption Limitation on Incurrence of Indebtedness ;



## **Table of Contents**

(2) the Net Available Proceeds received by NIC or any Restricted Subsidiary in connection with such Sale/Leaseback Transaction are at least equal to the fair value (as determined by the Board of Directors of NIC or a member of senior management of NIC) of such property; and

(3) NIC or such Restricted Subsidiary applies the Net Available Proceeds of such transaction in compliance with Limitation on Certain Asset Dispositions.

Notwithstanding the foregoing, the provisions of this covenant shall not prohibit NIC or any Restricted Subsidiary from entering into any Sale/Leaseback Transaction with respect to the purchase of tooling and related manufacturing equipment in the ordinary course of business.

***Limitation on Payment Restrictions Affecting Restricted Subsidiaries.*** The Indenture provides that NIC will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, create or suffer to exist or allow to become effective any consensual encumbrance or restriction of any kind on the ability of any such Restricted Subsidiary to:

(1) pay dividends, in cash or otherwise, or make other payments or distributions on its Capital Stock or any other equity interest or participation in, or measured by, its profits, owned by NIC or by any Restricted Subsidiary of NIC, or make payments or prepayments on any Indebtedness owed to NIC or to any Restricted Subsidiary of NIC;

(2) make loans or advances to or make Investments in NIC or any Restricted Subsidiary of NIC; or

(3) transfer any of their respective property or assets to NIC or to any Restricted Subsidiary of NIC.

The preceding restrictions, however, will not apply to encumbrances or restrictions existing under or by reason of:

(1) applicable law, regulations or order;

(2) customary provisions restricting subletting or assignment of any lease, sublease, license, sublicense or service contract;

(3) indebtedness or any other contractual requirements (including pursuant to any corporate governance documents in the nature of a charter or by-laws) of a Securitization Subsidiary arising in connection with a Qualified Securitization Transaction, *provided*, that any such encumbrances and restrictions apply only to such Securitization Subsidiary;

(4) any agreement in effect on the Issue Date as any such agreement is in effect on such date;

(5) any agreement (including Acquired Indebtedness) of any Restricted Subsidiary in effect on the date on which such Restricted Subsidiary became a Subsidiary of NIC and not entered into in anticipation or contemplation of becoming a Subsidiary of NIC, *provided*, such encumbrance or restriction shall not apply to any assets of NIC or its Restricted Subsidiaries other than such Restricted Subsidiary;

(6) the Indenture, the Notes and the Subsidiary Guarantees;

(7) restrictions relating to any Lien permitted under the Indenture imposed by the holder of such Lien;

(8) restrictions imposed under any agreement to sell assets permitted under the Indenture to any Person pending the closing of such sale;

(9) any other agreement governing Indebtedness entered into after the Issue Date that contains encumbrances and restrictions that are not materially more restrictive with respect to any Restricted Subsidiary than those in effect on the Issue Date with respect to that Restricted Subsidiary pursuant to agreements in effect on the Issue Date;



## **Table of Contents**

(10) customary provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements entered into in the ordinary course of business that restrict the transfer of ownership interests in such partnership, limited liability company, joint venture or similar Person;

(11) Indebtedness incurred in compliance with clause (18) of the covenant described under Limitation on Incurrence of Indebtedness, *provided* that such encumbrance or restriction applies only to assets financed with the proceeds of such Indebtedness;

(12) restrictions on cash or other deposits or net worth imposed by suppliers or landlords under contracts entered into in the ordinary course of business;

(13) encumbrances or restrictions contained in Indebtedness of Restricted Subsidiaries permitted to be incurred under clauses (3), (26) or (27) of the covenant described under Limitation on Incurrence of Indebtedness; *provided* that any such encumbrances or restrictions are ordinary and customary with respect to the type of Indebtedness being incurred under the relevant circumstances and either (A) such encumbrances or restrictions do not materially impair the NIC's ability to make payment on the Notes when due or (B) such encumbrances or restrictions only apply if a default occurs in respect of a payment or financial covenant relating to such Indebtedness;

(14) encumbrances or restrictions imposed by the Support Agreement, the Master Intercompany Agreements or the Shy Settlement; and

(15) any encumbrances or restrictions imposed by any amendments, refinancings or replacements of the contracts, instruments or obligations referred to in clauses (1) through (14) above; *provided* that such amendments, refinancings or replacements are no more materially restrictive with respect to such encumbrances and restrictions than those prior to such amendment, refinancing or replacement.

***Limitation on Transactions with Affiliates.*** The Indenture provides that NIC will not, and will not cause or permit any of its Restricted Subsidiaries to:

(1) sell, lease, transfer or otherwise dispose of any of its property or assets to,

(2) purchase any property or assets from,

(3) make any Investment in, or

(4) enter into or amend or extend any contract, agreement or understanding with or for the benefit of, any Affiliate of NIC or of any Subsidiary (an *Affiliate Transaction*),

other than Affiliate Transactions that are on terms that are fair and reasonable to NIC or such Restricted Subsidiary of NIC and that are no less favorable to NIC or such Restricted Subsidiary of NIC than those that could be obtained in a comparable arm's length transaction by NIC or such Restricted Subsidiary of NIC from an unaffiliated party; *provided*, that if NIC or any Restricted Subsidiary of NIC enters into an Affiliate Transaction or series of Affiliate Transactions involving or having an aggregate value of more than \$25.0 million, a majority of the disinterested members of the Board of Directors of NIC or a committee thereof shall, prior to the consummation of such Affiliate Transaction, have determined (as evidenced by a resolution thereof) that such Affiliate Transaction meets the foregoing standard; *provided further* that that if NIC or any Restricted Subsidiary of NIC enters into an Affiliate Transaction or series of Affiliate Transactions involving or having an aggregate value of more than \$75.0 million, NIC delivers to the Trustee an opinion issued by an independent accounting, appraisal or investment banking firm of national standing stating that such Affiliate Transaction is fair to NIC or such Restricted Subsidiary from a financial point of view.

The foregoing restrictions shall not apply to:

(1) any transaction between Restricted Subsidiaries of NIC, or between NIC and any Restricted Subsidiary of NIC;



**Table of Contents**

(2) transactions entered into pursuant to the terms