

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

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

Berry Petroleum Corporation
Berry Petroleum Company, LLC

(Exact Name of Registrant as Specified in its Charter)

Delaware
Delaware

(State or other Jurisdiction
of Incorporation or Organization)

81-5410470
77-0079387

(I.R.S. Employer
Identification Number)

16000 N. Dallas Parkway, Suite 500, Dallas, Texas 75248
(661) 616-3900

(Address, including Zip Code, and Telephone Number, including Area Code, of Registrants' Principal Executive Offices)

A. T. (Trem) Smith
President, Chief Executive Officer and Board Chair
16000 N. Dallas Parkway, Suite 500, Dallas, Texas 75248
(661) 616-3900

(Name, Address, including Zip Code, and Telephone Number, including Area Code, of Agent for Service)

Copies to:

Douglas E. McWilliams
Sarah K. Morgan
Vinson & Elkins L.L.P.
1001 Fannin, Suite 2500
Houston, Texas 77002-6760
(713) 758-2222

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

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

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

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

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

Emerging growth company

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

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price of all Securities to be Registered(1)	Amount of Registration Fee
Common Stock, par value \$0.001 per share		
Preferred Stock, par value \$0.001 per share		
Debt Securities (4)		
Guarantees of Debt Securities (4)		
Total:	\$500,000,000 (2)(3)	\$60,600 (2)

- (1) The proposed maximum offering price per share and the proposed maximum aggregate offering price for each class of securities to be registered is not specified pursuant to General Instruction, II.D. of Form S-3.
- (2) Estimated solely for purposes of calculating the registration fee in accordance with Rule 457(o). In no event will the aggregate initial offering price of all securities offered from time to time pursuant to this registration statement exceed \$500,000,000.
- (3) There are being registered hereunder an indeterminate number or amount of common stock, an indeterminate number or amount of preferred stock, an indeterminate number or amount of debt securities and an indeterminate number or amount of guarantees of debt securities, as may from time to time be issued by the registrants, as applicable, which together shall have an aggregate initial offering price not to exceed \$500,000,000. Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), this registration statement shall be deemed to cover any additional shares of common stock that may be offered or issued in connection with any stock split, stock dividend or similar transaction.
- (4) If any debt securities are issued hereunder, they will be issued by either Berry Petroleum Corporation or Berry Petroleum Company, L.L.C. If any debt securities are issued at an original issue discount, then the offering price of such debt securities shall be in such amount as shall result in an aggregate initial offering price not to exceed \$500,000,000, less the dollar amount of any registered securities previously issued. If any guarantees of debt securities are issued hereunder, they will be issued by either Berry Petroleum Corporation or Berry Petroleum Company, L.L.C. Pursuant to Rule 457(n) under the Securities Act, no separate registration fee will be paid in respect of any guarantees of any debt securities registered hereby.

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

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

Subject to Completion, dated August 9, 2019



**Berry
Petroleum
Corporation**

**Berry Petroleum Corporation
Berry Petroleum Company, LLC**

\$500,000,000

**Common Stock
Preferred Stock
Debt Securities
Guarantees of Debt Securities**

At the time of filing we have no current plans to do so, however, from time to time in one or more offerings, we may offer and sell (i) common stock, (ii) preferred stock, (iii) debt securities issued by Berry Petroleum Corporation ("Berry Corp.") or Berry Petroleum Company, LLC ("Berry LLC") and (iv) guarantees of debt securities, issued by Berry Corp. or Berry LLC. We refer to the common stock, the preferred stock, the debt securities and the guarantees of debt securities collectively as the "securities." The aggregate initial offering price of all securities sold by us under this prospectus will not exceed \$500,000,000.

We may offer and sell these securities on a delayed or continuous basis to or through one or more underwriters, dealers or agents, or directly to investors, in amounts, at prices and on terms to be determined by market conditions and other factors at the time of the offering. This prospectus describes only the general terms of these securities and the general manner in which we may offer these securities. The specific terms of any securities we offer will, if not included in this prospectus or information incorporated by reference herein, be included in a supplement to this prospectus. The prospectus supplement may describe the specific manner in which we will offer these securities and also may add, update or change information contained in this prospectus.

We may amend or supplement this prospectus from time to time by filing amendments or supplements as required. You should read this entire prospectus, including the documents incorporated by reference, and any amendments or supplements carefully before you make your investment decision.

Our common stock is listed on the Nasdaq Global Select Market (the "NASDAQ") under the symbol "BRY." We will provide information in the related prospectus supplement for the trading market, if any, for any other securities that may be offered.

Investing in our securities involves risks. Please see "Risk Factors" beginning on page 2 of this prospectus.

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

The date of this prospectus is _____, 2019

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You should rely only on the information contained in this prospectus, any prospectus supplement and the documents we have incorporated by reference in this. We have not authorized anyone to provide you with information different from that contained in this prospectus, any prospectus supplement or any free writing prospectus. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. We are offering to sell these securities only in jurisdictions where offers and sales are permitted. The information in this prospectus or any prospectus supplement is accurate only as of the date of this prospectus or such prospectus supplement, regardless of the time of delivery of this prospectus, any prospectus supplement or any sale of the securities. We will disclose any material changes in our affairs in an amendment to this prospectus, a prospectus supplement or a future filing with the SEC incorporated by reference in this prospectus.

ABOUT THIS PROSPECTUS

Additional information, including our financial statements and the notes thereto, is incorporated in this prospectus by reference to our reports filed with the SEC. Please read “Where You Can Find More Information” below. You are urged to read this prospectus carefully, including “Risk Factors,” “Cautionary Note Regarding Forward-Looking Statements,” and the documents incorporated by reference in their entirety before investing in our securities.

On May 11, 2016 our predecessor company filed bankruptcy. Our bankruptcy case was jointly administered with that of Linn Energy, LLC and its affiliates under the caption In re Linn Energy, LLC, et al., Case No. 16-60040 (the “Chapter 11 Proceeding”). On January 27, 2017, the bankruptcy court approved and confirmed our plan of reorganization in the Chapter 11 Proceeding (the “Plan”). On February 28, 2017 (the “Effective Date”), the Plan became effective and was implemented. A final decree closing the Chapter 11 Proceeding was entered September 28, 2018, with the Court retaining jurisdiction as described in the confirmation order and without prejudice to the request of any party-in-interest to reopen the case including with respect to certain, immaterial remaining matters.

When we use the terms “we,” “us,” “our,” the “Company,” or similar words in this prospectus, unless the context otherwise requires, on or prior to the Effective Date, we are referring to Berry LLC, our predecessor company, and following the Effective Date, we are referring to Berry Corp. and its subsidiary, Berry LLC, together, the successor company, as applicable.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-3 (including the exhibits, schedules and amendments thereto) under the Securities Act, with respect to the securities that may be offered hereby. This prospectus does not contain all of the information set forth in the registration statement and the exhibits and schedules thereto. For further information with respect to the securities offered hereby, we refer you to the registration statement and the exhibits and schedules filed therewith. Statements contained in this prospectus as to the contents of any contract, agreement or any other document are summaries of the material terms of such contract, agreement or other document and are not necessarily complete. With respect to each of these contracts, agreements or other documents filed as an exhibit to the registration statement, reference is made to the exhibits for a more complete description of the matter involved.

We are required to file annual and quarterly reports and other information with the SEC. The SEC maintains a website that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC. The address of the SEC's website is *www.sec.gov*.

We maintain an Internet site at *www.berrypetroleum.com*. We do not incorporate our Internet site, or the information contained on that site or connected to that site, into this prospectus or this registration statement.

We make available free of charge on our website, all materials that we have filed electronically with the SEC, including our Annual Reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, Section 16 reports and amendments to these reports as soon as reasonably practicable after such materials are electronically filed with, or furnished to, the SEC. Our filings will also be available to the public from commercial document retrieval services.

INFORMATION INCORPORATED BY REFERENCE

The SEC allows us to “incorporate by reference” the information we file with the SEC. This means we can disclose important information to you without actually including the specific information in this prospectus by referring to those documents. The information incorporated by reference is an important part of this prospectus.

If information in incorporated documents conflicts with information in this prospectus, you should rely on the most recent information. If information in an incorporated document conflicts with information in another incorporated document, you should rely on the most recent incorporated document.

We incorporate by reference the documents listed below, any documents we may file pursuant to the Securities Exchange Act of 1934 (the “Exchange Act”) after the date of the filing of the registration statement of which this prospectus forms a part and prior to the effectiveness of the registration statement and any future filings made with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act, excluding any information furnished and not filed with the SEC, from the date of this prospectus until the termination of each offering under this prospectus:

- our Annual Report on Form 10-K for the year ended December 31, 2018;
- our Quarterly Reports on Form 10-Q for the quarterly periods ended March 31, 2019 and June 30, 2019;
- our Current Reports on Form 8-K filed on February 28, 2019 and May 15, 2019 (in each case, excluding any information furnished and not filed pursuant to Item 2.02 or 7.01 or corresponding information furnished under Item 9.01 or included as an exhibit); and
- the description of our common stock contained in our registration statement on Form 8-A, filed on July 24, 2018, including any amendments or reports filed for the purpose of updating the description.

You may request a copy of any document incorporated by reference in this Prospectus, at no cost, by writing or calling us at the following address:

Berry Petroleum Corporation
16000 N. Dallas Parkway, Suite 500
Dallas, Texas 75248
(661) 616-3900
Attention: Investor Relations

You should rely only on the information incorporated by reference or provided in this prospectus. We have not authorized anyone else to provide you with any information. You should not assume that the information incorporated by reference or provided in this prospectus is accurate as of any date other than the date on the front of each document.

ABOUT BERRY PETROLEUM CORPORATION

Our Company

We are a western United States independent upstream energy company with a focus on low risk, long-lived, oil reserves in conventional reservoirs. Most of our assets are in the San Joaquin basin of California. Our long-lived, high-margin asset base is uniquely positioned to support our objectives of generating top-tier corporate-level returns and positive levered free cash flow through commodity price cycles. We target onshore, low-cost, low-risk, oil-rich reservoirs in the San Joaquin basin of California and, to a lesser extent, our Rockies assets including low-cost, oil-rich reservoirs in the Uinta basin of Utah and low geologic risk natural gas resource plays in the Piceance basin in Colorado. Successful execution of our strategy across our low-declining production base and extensive inventory of identified drilling locations will result in long-term, capital efficient, consistent and predictable production growth, as well as the ability to continue returning capital to our stockholders.

Our Corporate Structure

Berry Corp. is a holding company that was incorporated as a Delaware corporation in February 2017 for the purpose of facilitating an initial public offering (“IPO”) of common equity and to become the sole managing member of Berry LLC. On July 30, 2018, Berry Corp. completed its IPO.

As the sole managing member of Berry LLC, Berry Corp. operates and controls all of the business and affairs of Berry LLC and, through Berry LLC, conducts our business. Berry Corp. consolidates the financial results of Berry LLC. Berry Corp.’s principal asset is a controlling equity interest in Berry LLC.

Corporate Information

Berry Corp. was incorporated in Delaware in February 2017. We have executive offices located at 5201 Truxtun Ave., Bakersfield, California 93309 and at 16000 N. Dallas Pkwy, Ste. 500, Dallas, Texas 75248, where we have our principal executive offices. Our telephone number is (661) 616-3900 and our web address is www.berrypetroleum.com. Information contained in or accessible through our website is not, and should not be deemed to be, part of this prospectus.

RISK FACTORS

An investment in our securities involves a significant degree of risk. You should carefully consider the risk factors and all of the other information included in this prospectus and the documents we have incorporated by reference into this prospectus, including those under the heading “Risk Factors” in our most recent Annual Report on Form 10-K and any subsequently filed Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, before making an investment decision. Any of these risks and uncertainties could have a material adverse effect on our business, production, growth plans, reserves quantities or value, operating or capital costs, financial condition, results of operations and our ability to meet our capital expenditure plans and other obligations and financial commitments.

The risks included in this prospectus and the documents we have incorporated by reference into this prospectus are not the only risks we face. We may experience additional risks and uncertainties not currently known to us, or as a result of developments occurring in the future. Conditions that we currently deem to be immaterial may also have material adverse effects similar to those noted above.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

The information included or incorporated by reference in this prospectus or in any accompanying prospectus supplement includes forward-looking statements involving risks and uncertainties that could materially affect our expected results of operations, liquidity, cash flows and business prospects. Such statements specifically include our expectations as to our future financial position, liquidity, cash flows, results of operations and business strategy, potential acquisition opportunities, other plans and objectives for operations, maintenance capital requirements, expected production and costs, reserves, hedging activities, capital expenditures, return of capital, improvement of recovery factors and other guidance. Actual results may differ from anticipated results, sometimes materially, and reported results should not be considered an indication of future performance. You can typically identify forward-looking statements by words such as aim, anticipate, achievable, believe, budget, continue, could, effort, estimate, expect, forecast, goal, guidance, intend, likely, may, might, objective, outlook, plan, potential, predict, project, seek, should, target, will or would and other similar words that reflect the prospective nature of events or outcomes. For any such forward-looking statement that includes a statement of the assumptions or bases underlying such forward-looking statement, we caution that, while we believe such assumptions or bases to be reasonable and make them in good faith, assumed facts or bases almost always vary from actual results, sometimes materially. Material risks that may affect us are discussed above in “Risk Factors” in this prospectus, in any applicable prospectus supplement and in the documents incorporated by reference, including our most recent Annual Report on Form 10-K.

Factors (but not necessarily all the factors) that could cause results to differ include among others:

- volatility of oil, natural gas and NGL prices;
- price and availability of natural gas;
- our ability to use derivative instruments to manage commodity price risk;
- our ability to obtain permits and otherwise to meet our proposed drilling schedule and to successfully drill wells that produce oil and natural gas in commercially viable quantities;
- impact of environmental, health and safety, and other governmental regulations, and of current, pending, or future legislation;
- uncertainties associated with estimating proved reserves and related future cash flows;
- our ability to replace our reserves through exploration and development activities;
- our ability to obtain timely and available drilling and completion equipment and crew availability and access to necessary resources for drilling, completing and operating wells;
- changes in tax laws;
- effects of competition;
- our ability to make acquisitions and successfully integrate any acquired businesses;
- market fluctuations in electricity prices and the cost of steam;
- asset impairments from commodity price declines;
- large or multiple customer defaults on contractual obligations, including defaults resulting from actual or potential insolvencies;
- geographical concentration of our operations;
- ineffectiveness of internal controls;

- concerns about climate change and other air quality issues;
- catastrophic events;
- litigation;
- our ability to retain key members of our senior management and key technical employees; and
- information technology failures or cyber attacks.

Except as required by law, we undertake no responsibility to publicly release the result of any revision of our forward-looking statements after the date they are made.

All forward-looking statements, expressed or implied, included in this prospectus are expressly qualified in their entirety by this cautionary statement. This cautionary statement should also be considered in connection with any subsequent written or oral forward-looking statements that we or persons acting on our behalf may issue.

USE OF PROCEEDS

Except as otherwise provided in an applicable prospectus supplement, we will use the net proceeds we receive from the sale of the securities covered by this prospectus for general corporate purposes, which may include, among other things, the repayment or refinancing of all or a portion of our debt, funding acquisitions of assets or businesses and organic growth.

The actual application of proceeds we receive from any particular offering of securities using this prospectus will be described in the applicable prospectus supplement relating to such offering.

PRO FORMA FINANCIAL DATA

The following unaudited pro forma consolidated financial information of Berry Corp. gives effect to the 2026 Notes (as defined below) issuance as well as the Series A Preferred Stock Conversion (as defined below) and the IPO completed in July 2018. The unaudited pro forma consolidated statements of operations are presented for the year ended December 31, 2018. This unaudited pro forma consolidated financial information should be read in conjunction with Berry Corp.'s consolidated financial statements as of and for year ended December 31, 2018, which are included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018 and incorporated by reference into this prospectus.

The unaudited pro forma consolidated statements of operations for the year ended December 31, 2018 give effect to (1) the 2026 Notes issuance and (2) the Series A Preferred Stock Conversion and the IPO as if each had been completed as of January 1, 2018.

The unaudited pro forma consolidated financial statements are for informational and illustrative purposes only and are not necessarily indicative of the financial results that would have been had the events and transactions occurred on the dates assumed, nor are such financial statements necessarily indicative of the results of operations in future periods. The pro forma adjustments, as described in the accompanying notes, are based upon currently available information. The financial information has been adjusted to give effect to pro forma adjustments that are (i) directly attributable to the 2026 Notes issuance, the Series A Preferred Stock Conversion, the IPO and the application of net proceeds from the IPO and the 2026 Notes issuance, (ii) factually supportable, and (iii) expected to have a continuing impact on the Company's consolidated results.

Issuance of 2026 Notes

In February 2018, we completed a private issuance of \$400 million in aggregate principal amount of 7.0% senior unsecured notes due 2026 (the "2026 Notes"), which resulted in net proceeds of approximately \$391 million after deducting expenses and the initial purchasers' discount. We used a portion of the net proceeds from the issuance of the 2026 Notes to repay the \$379 million outstanding balance on our revolving credit facility and used the remainder for general corporate purposes.

Series A Preferred Stock Conversion and Common Stock Offering

In connection with the IPO, we amended the Series A Preferred Stock certificate of designation to provide for the automatic conversion of all outstanding shares of Series A Preferred Stock. Pursuant to the amendment, each outstanding share of our Series A Convertible Preferred Stock, par value \$0.001 per share (the "Series A Preferred Stock") was automatically converted into (i) 1.05 shares of common stock and (ii) the right to receive \$1.75, minus the amount of any cash dividend paid by the Company on such share of Series A Preferred Stock for any period commencing on or after April 1, 2018 (the "Series A Preferred Stock Conversion").

Of the approximately \$110 million of net proceeds we received in the IPO, we used approximately \$105 million to repay borrowings under our \$1.5 billion reserves-based lending facility, entered July 31, 2017 (as amended, the "RBL Facility"). This included \$60 million we borrowed on the RBL Facility to make the payment due to the holders of our Series A Preferred Stock in connection with the conversion of preferred stock to common stock. We used the remainder for general corporate purposes.

In connection with the IPO, on July 17, 2018, we entered into stock purchase agreements with certain funds affiliated with Oaktree Capital Management and Benefit Street Partners, pursuant to which we purchased an aggregate of 410,229 and 1,391,967 shares of our common stock, respectively, or 1,802,196 in total. In addition to 8,695,653 shares of common stock issued and sold for our benefit in the IPO, we simultaneously received \$24 million for selling 1,802,196 shares to the public and paid \$24 million to purchase 1,802,196 shares under the stock purchase agreements. We purchased the shares immediately following the closing of the IPO and retired and returned them to the status of authorized but unissued shares. The selling stockholders also directly sold an additional 2,545,630 shares at a price to the public of \$14.00 per share for which we did not receive any proceeds.

BERRY PETROLEUM CORPORATION
UNAUDITED PRO FORMA CONSOLIDATED
STATEMENT OF OPERATIONS
FOR YEAR ENDED DECEMBER 31, 2018
(\$ in thousands, except per share amounts)

	Berry Corp. (Successor) Year Ended December 31, 2018	Issuance of 2026 Notes Adjustments	Series A Preferred Stock Conversion and Common Stock Offering Adjustments	Berry Corp. (Successor) Pro Forma
Revenues and other:				
Oil, natural gas and NGL sales	\$552,874	\$ —	\$ —	\$552,874
Electricity sales	35,208			35,208
Gains (losses) on oil derivatives	(4,621)			(4,621)
Marketing revenues	2,322			2,322
Other revenues	774			774
Total revenues and other	586,557	—	—	586,557
Expenses and other:				
Lease operating expenses	188,776			188,776
Electricity generation expenses	20,619			20,619
Transportation expenses	9,860			9,860
Marketing expenses	2,140			2,140
General and administrative expenses	54,026			54,026
Depreciation, depletion and amortization	86,271			86,271
Taxes, other than income taxes	33,117			33,117
(Gain) losses on natural gas derivatives	(6,357)			(6,357)
(Gain) losses on sale of assets and other, net	(2,747)			(2,747)
Total expenses and other	385,705	—	—	385,705
Other income and (expenses):				
Interest expense, net of amounts capitalized	(35,648)	(1,764) ^(a)	1,626 ^(c)	(35,786)
Other, net	243			243
Total other income (expenses)	(35,405)	(1,764)	1,626	(35,543)
Reorganization items, net	24,690			24,690
Income (loss) income before income taxes	190,137	(1,764)	1,626	189,999
Income tax expense (benefit)	43,035	(405) ^(b)	373 ^(b)	43,003
Net income (loss)	147,102	(1,359)	1,253	146,996
Series A preferred stock dividends and conversion to common stock	(97,942)		5,650 ^(f)	(92,292)
Net income (loss) attributable to common stockholders	\$49,160	\$(1,359)	\$6,903	\$54,704
Net income (loss) per share of common stock:				
Basic	\$0.85			\$0.64
Diluted	\$0.85			\$0.64
Weighted average common shares outstanding:				
Basic	57,743 ^(g)		27,123 ^{(d)(e)}	84,866
Diluted	57,932 ^(g)		27,123 ^{(d)(e)}	85,055

NOTES TO UNAUDITED PRO FORMA CONSOLIDATED FINANCIAL INFORMATION

1. Basis of Presentation

The accompanying unaudited pro forma consolidated statements of operations and explanatory notes present the financial information of Berry Corp. assuming the events and transactions had occurred on January 1, 2018.

The following are descriptions of the columns included in the accompanying unaudited pro forma consolidated statements of operations:

Issuance of 2026 Notes Adjustments represent adjustments to give effect to the Company's issuance and net proceeds of the 2026 Notes to the consolidated statements of operations as of the date assumed.

Series A Preferred Stock Conversion and Common Stock Offering Adjustments represent adjustments to give effect to the conversion of preferred stock into common stock, including the payment of cash dividends and the common stock offering to the consolidated financial statements as of the date assumed.

2. Unaudited Pro Forma Consolidated Statement of Operations Adjustments

Issuance of 2026 Notes Adjustments

(a) The issuance of the 2026 Notes was assumed to have occurred on January 1, 2018 for pro forma purposes and to have resulted in net proceeds of \$391 million. As a result, borrowings under the RBL Facility would not have been necessary during the period from January 1, 2018 leading up to the issuance date in February 2018.

The Company calculated the pro forma adjustment to increase interest expense as a result of the higher interest rate on the 2026 Notes and reversing the interest expense and other fees associated with the RBL Facility for the corresponding period as follows:

	(\$ in thousands)
Reversal of interest expense on RBL Facility, unused availability fee and letters of credit fee	\$ (1,667)
Reversal of 2026 Notes interest expense	(25,044)
Reversal of 2026 Notes amortization of debt issuance cost	(1,029)
Pro Forma - unused availability fee and letters of credit fee	348
Pro Forma - 2026 Notes interest expense	28,000
Pro Forma - amortized portion of deferred financing costs on 2026 Notes	1,156
Pro Forma adjustment to increase interest expense	\$ 1,764

(b) The effective tax rate applied to the increased interest expense was 23% for the year ended December 31, 2018.

Series A Preferred Stock Conversion and Common Stock Offering Adjustments

(c) The Series A Preferred Stock Conversion and Common Stock Offering were assumed to have occurred on January 1, 2018 for pro forma purposes and to have resulted in net proceeds of \$110 million. As a result, borrowings under the RBL Facility that occurred after the issuance of the 2026 Notes in February 2018 would not have been necessary.

The Company calculated the pro forma adjustment to decrease interest expense as a result of reversing the interest expense and other fees associated with the RBL Facility for the remainder of the year ended December 31, 2018 as follows:

	(\$ in thousands)
Reversal of interest expense on RBL Facility, unused availability fee and letters of credit fee	\$ (3,429)
Pro Forma - unused availability fee and letters of credit fee	1,803
Pro Forma adjustment to increase interest expense	<u>\$ (1,626)</u>

(d) Adjustment includes the impact on basic and diluted weighted average common shares outstanding assuming the issuance of approximately 8.7 million additional shares of common stock in the IPO, net of the simultaneous purchase and sale of approximately 1.8 million shares of our common stock for the benefit of funds affiliated with Benefit Street Partners and Oaktree Capital Management, had occurred on January 1, 2018. The impact on the weighted average shares for the year ended December 31, 2018 was approximately 4.9 million additional common shares, as the IPO actually occurred in July 2018.

(e) Adjustment includes the impact on basic and diluted weighted average common shares outstanding assuming the Series A Preferred Stock Conversion occurred on January 1, 2018. This assumes the April 2018 Series A Preferred Stock PIK dividend occurred and approximately 37.7 million shares of Series A Preferred Stock were converted, at the conversion rate of 1 share of Series A Preferred Stock to 1.05 shares of common stock, into approximately 39.6 million shares of common stock on January 1, 2018. The impact on the weighted average shares for the year ended December 31, 2018 was approximately 22.2 million additional common shares as the Series A Preferred Stock Conversion actually occurred July 2018. Additionally, previously antidilutive stock awards would be dilutive on a proforma basis for the year ended December 31, 2018 resulting in approximately 0.2 million additional common shares included in the diluted weighted average common shares outstanding adjustment for this same period.

(f) Adjustment assumes the July 2018 Series A Preferred Stock Conversion occurred on January 1, 2018 and would have had the net impact of excluding the preferred cash dividends paid in the first quarter of 2018.

(g) Share count includes 2,770,000 shares that we issued in early 2019 to the general unsecured creditors resulting from the bankruptcy process to settle their claims for which we had originally reserved 7,080,000 shares.

DESCRIPTION OF DEBT SECURITIES AND GUARANTEES

The debt securities covered by this prospectus (the “debt securities”) will be general unsecured obligations of Berry Corp. or Berry LLC. Berry Corp. or Berry LLC will issue debt securities under an indenture to be entered into with a trustee we will name in the prospectus supplement relating to such securities, which we refer to in this prospectus as the indenture. The debt securities may have the benefit of guarantees (each, a “guarantee”) by Berry Corp. or Berry LLC (each, a “guarantor”), which will be specified in the prospectus supplement for the series of such debt securities.

We have summarized selected provisions of the indenture, the debt securities and the guarantees below. This summary is not complete. We have filed the form of indenture with the SEC as an exhibit to the registration statement, and you should read the indenture for provisions that may be important to you.

In this summary, unless we state otherwise or the context clearly indicates otherwise, all references to “we,” “us” or “our” refer to the issuer of the debt securities, Berry Corp. or Berry LLC, as applicable.

General

The indenture does not limit the amount of debt securities that may be issued under the indenture, and does not limit the amount of other unsecured debt or securities that may be issued. The issuer may issue debt securities under the indenture from time to time in one or more series, each in an amount authorized prior to issuance.

The debt securities will either constitute the issuer’s senior unsecured indebtedness and will rank equally in right of payment with all of the issuer’s other unsecured and unsubordinated debt and senior in right of payment to all of the issuer’s subordinated indebtedness, or constitute the issuer’s subordinated unsecured indebtedness and will rank junior to all of the issuer’s senior indebtedness and may rank equally with or senior to other subordinated indebtedness the issuer may issue from time to time. The debt securities will be effectively subordinated to, and thus have a junior position to, the issuer’s secured indebtedness with respect to the assets securing that indebtedness.

If specified in a prospectus supplement, the debt securities will be the general unsecured obligation of the guarantor, who executes guarantees.

The indenture does not contain any covenants or other provisions designed to protect holders of the debt securities in the event the issuer participates in a highly leveraged transaction or upon a change of control. The indenture also does not contain provisions that give holders of the debt securities the right to require it to repurchase their securities in the event of a decline in the issuer’s credit rating for any reason, including as a result of a takeover, recapitalization or similar restructuring or otherwise.

Terms

The prospectus supplement relating to any series of debt securities being offered will include specific terms relating to the offering. These terms will include some or all of the following:

- the issuer of the debt securities;
- the guarantor of the debt securities, if any;
- whether the debt securities will be senior or subordinated debt securities;
- the price at which the issuer will issue the debt securities;
- the title of the debt securities;
- the total principal amount of the debt securities;
- whether the issuer will issue the debt securities in individual certificates to each holder or in the form of temporary or permanent global securities held by a depositary on behalf of holders;
- the date or dates on which the principal of and any premium on the debt securities will be payable;
- any interest rate, the date from which interest will accrue, interest payment dates and record dates for interest payments;

- whether and under what circumstances the issuer will pay any additional amounts with respect to the debt securities;
- the place or places where payments on the debt securities will be payable;
- any provisions for optional redemption or early repayment;
- any sinking fund or other provisions that would obligate the issuer to redeem, purchase or repay the debt securities;
- the denominations in which the issuer will issue the debt securities if other than \$1,000 and integral multiples of \$1,000;
- whether payments on the debt securities will be payable in foreign currency or currency unit or another form and whether payments will be payable by reference to any index or formula;
- the portion of the principal amount of debt securities that will be payable if the maturity is accelerated, if other than the entire principal amount;
- any additional means of defeasance of the debt securities, any additional conditions or limitations to defeasance of the debt securities or any changes to those conditions or limitations;
- any changes or additions to the events of default or covenants described in this prospectus;
- any restrictions or other provisions relating to the transfer or exchange of debt securities;
- any terms for the conversion or exchange of the debt securities for other securities; and
- any other terms of the debt securities not inconsistent with the applicable indenture.

The issuer may sell the debt securities at a discount, which may be substantial, below their stated principal amount. These debt securities may bear no interest or interest at a rate that at the time of issuance is below market rates. If the issuer sells these debt securities, the issuer will describe in the prospectus supplement any material United States federal income tax consequences and other special considerations.

If the issuer sells any of the debt securities for any foreign currency or currency unit or if payments on the debt securities are payable in any foreign currency or currency unit, the issuer will describe in the prospectus supplement the restrictions, elections, tax consequences, specific terms and other information relating to those debt securities and the foreign currency or currency unit.

Guarantees

If specified in the prospectus supplement, the issuer's payment obligations under any series of the debt securities may be guaranteed by Berry Corp. or Berry LLC as specified in the prospectus supplement for the series of such debt securities. If a series of debt securities is so guaranteed, the guarantor will execute a supplemental indenture or notation of guarantee as further evidence of their guarantee. The applicable prospectus supplement will describe the terms of any guarantee by the guarantor.

The obligations of a guarantor under its guarantee may be limited to the maximum amount that will not result in such guarantee obligations constituting a fraudulent conveyance or fraudulent transfer under federal or state law, after giving effect to all other contingent and fixed liabilities of that entity and any collections from or payments made by or on behalf of any other guarantor in respect of its obligations under its guarantee.

Each indenture may restrict consolidations or mergers with or into a guarantor or provide for the release of a guarantor from a guarantee, as set forth in a related prospectus supplement, the applicable indenture and any applicable related supplemental indenture.

If a series of debt securities is guaranteed by a guarantor and is designated as subordinate to the issuer's senior debt, then the guarantee by the guarantor will be subordinated to such guarantor's senior debt and will be subordinated to any guarantees by such guarantor of the issuer's senior debt.

Berry Corp., as Berry LLC's parent company, has no independent assets or operations. Any guarantees of potential future registered debt securities by Berry Corp. or Berry LLC would be full and unconditional. Berry Corp. and Berry LLC currently do not have any other subsidiaries. In addition, there are no significant restrictions upon the ability of Berry LLC to distribute

funds to Berry Corp. by distribution or loan other than under the RBL Facility. None of the assets of Berry Corp. or Berry LLC represent restricted net assets.

Events of Default

Unless the issuer informs you otherwise in the applicable prospectus supplement, the following are events of default with respect to a series of debt securities:

- the issuer's failure to pay interest on any debt security of that series for 30 days when due;
- the issuer's failure to pay principal of or any premium on any debt security of that series when due;
- the issuer's failure to deposit any sinking fund payment for 30 days when due;
- the issuer's failure to comply with any agreement in that series of debt securities or the indenture (other than an agreement or covenant that has been included in the indenture solely for the benefit of other series of debt securities) for 60 days after written notice by the trustee or by the holders of at least 25% in principal amount of the outstanding debt securities issued under the indenture that are affected by that failure;
- specified events involving bankruptcy, insolvency or reorganization of the issuer; and
- any other event of default provided for that series of debt securities.

A default under one series of debt securities will not necessarily be a default under any other series. If a default or event of default for any series of debt securities occurs, is continuing and is known to the trustee, the trustee will notify the holders of applicable debt securities within 60 days after it occurs. The trustee may withhold notice to the holders of the debt securities of any default or event of default, except in any payment on the debt securities, if the trustee in good faith determines that withholding notice is in the interests of the holders of those debt securities.

If an event of default for any series of debt securities occurs and is continuing, the trustee or the holders of at least 25% in principal amount of the outstanding debt securities of the series affected by the default (or, in some cases, 25% in principal amount of all debt securities issued under the indenture that are affected, voting as one class) may declare the principal of and all accrued and unpaid interest on those debt securities to be due and payable immediately. If an event of default relating to certain events of bankruptcy, insolvency or reorganization of the issuer's company occurs, the principal of and accrued and unpaid interest on all the debt securities issued under the indenture will become immediately due and payable without any action on the part of the trustee or any holder. At any time after a declaration of acceleration has been made, the holders of a majority in principal amount of the outstanding debt securities of the series affected by the default (or, in some cases, of all debt securities issued under the indenture that are affected, voting as one class) may in some cases rescind this accelerated payment requirement and its consequences.

A holder of a debt security of any series issued under the indenture may pursue any remedy under the indenture only if:

- the holder has previously given to the trustee written notice of a continuing event of default with respect to such series;
- the holders of at least 25% in principal amount of the outstanding debt securities of that series make a written request to the trustee to pursue the remedy;
- the holders offer to the trustee indemnity satisfactory to the trustee against any loss, liability or expense;
- during that 60-day period, the holders of a majority in principal amount of the debt securities of that series do not give the trustee a direction inconsistent with the request.

This provision does not, however, affect the right of a holder of a debt security to sue for enforcement of any overdue payment.

In most cases, the trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request or direction of any of the holders unless those holders have offered to the trustee indemnity satisfactory to it. Subject to this provision for indemnification, the holders of a majority in principal amount of the outstanding debt securities of a series (or of all debt securities issued under the applicable indenture that are affected, voting as one class) generally may direct the time, method and place of:

- conducting any proceeding for any remedy available to the trustee; or
- exercising any trust or power conferred on the trustee relating to or arising as a result of an event of default.

If an event of default occurs and is continuing, the trustee will be required to use the degree of care and skill of a prudent person in the conduct of his own affairs.

The indentures require the issuer to furnish to the trustee annually a statement as to the issuer's performance of certain of the issuer's obligations under the indentures and as to any default in performance.

Defeasance and Discharge

Defeasance. When we use the term defeasance, we mean discharge from some or all of the issuer's obligations under the indenture. If the issuer deposits with the trustee under the indenture any combination of money or government securities sufficient to make payments on the debt securities of a series issued under the indenture on the dates those payments are due, then, at the issuer's option, either of the following will occur:

- the issuer will be discharged from the issuer's obligations with respect to the debt securities of that series ("legal defeasance"); or
- the issuer will no longer have any obligation to comply with specified restrictive covenants with respect to the debt securities of that series, the covenant described under "-Consolidation, Merger and Sales of Assets" and other specified covenants under the indenture, and the related events of default will no longer apply ("covenant defeasance").

If a series of debt securities is defeased, the holders of the debt securities of that series will not be entitled to the benefits of the applicable indenture, except for obligations to register the transfer or exchange of debt securities, replace stolen, lost or mutilated debt securities or maintain paying agencies and hold money for payment in trust. In the case of covenant defeasance, the issuer's obligation to pay principal, premium and interest on the debt securities will also survive.

Unless the issuer informs you otherwise in the prospectus supplement, the issuer will be required to deliver to the trustee an opinion of counsel that the deposit and related defeasance would not cause the holders of the debt securities to recognize income, gain or loss for U.S. federal income tax purposes and that the holders would be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if the deposit and related defeasance had not occurred. If the issuer elects legal defeasance, that opinion of counsel must be based upon a ruling from the United States Internal Revenue Service or a change in law to that effect.

Satisfaction and Discharge. In addition, the indenture will cease to be of further effect with respect to the debt securities of a series issued under the indenture, subject to exceptions relating to compensation and indemnity of the trustee under the indenture and repayment to the issuer of excess money or government securities, when either:

- all outstanding debt securities of that series have been delivered to the trustee for cancellation; or
- all outstanding debt securities of that series not delivered to the trustee for cancellation either:
 - have become due and payable,
 - will become due and payable at their stated maturity within one year, or
 - are to be called for redemption within one year; and
 - the issuer has deposited with the trustee any combination of money or government securities in trust sufficient to pay the entire indebtedness on the debt securities of that series when due; and the issuer has paid all other sums payable by the issuer with respect to the debt securities of that series.

Book-Entry Debt Securities

The issuer may issue the debt securities of a series in the form of one or more global debt securities that would be deposited with a depository or its nominee identified in the prospectus supplement. The issuer may issue global debt securities in either temporary or permanent form. The issuer will describe in the prospectus supplement the terms of any depository arrangement and the rights and limitations of owners of beneficial interests in any global debt security.

Governing Law

New York law will govern the indenture, the debt securities and the guarantees.

The Trustee

The issuer will name the trustee under the indenture in the prospectus supplement. The trustee will be qualified to act under the Trust Indenture Act of 1939, as amended.

DESCRIPTION OF CAPITAL STOCK

Berry Corp.'s authorized capital stock consists of 750,000,000 shares of common stock, par value \$0.001 per share, and 250,000,000 shares of preferred stock, par value \$0.001 per share. As of July 31, 2019 there were 80,973,285 shares of common stock and no shares of preferred stock outstanding.

The following summary of the capital stock, the Amended and Restated Certificate of Incorporation of Berry Corp (the "Certificate of Incorporation") and the Second Amended and Restated Bylaws of Berry Corp. (the "Bylaws") does not purport to be complete and is qualified in its entirety by reference to the provisions of applicable law and to the Certificate of Incorporation and Bylaws.

Common Stock

Dividends

Holders of the common stock are entitled to dividends in the amounts and at the times declared by Berry Corp.'s board of directors in its discretion out of any assets or funds of Berry Corp. legally available for the payment of dividends.

Voting

Each holder of shares of the common stock is entitled to one vote for each share of the common stock on all matters presented to the stockholders of Berry Corp. (including the election of directors). The holders of shares of common stock have no cumulative voting rights. All elections of directors are determined by a plurality of the votes cast, and except as otherwise required by law or by the rules of any stock exchange upon which Berry Corp.'s securities are listed or as otherwise provided in the Bylaws or Certificate of Incorporation, all other matters are determined by a majority of the votes cast affirmatively or negatively, on such matter. In addition, the Board has adopted a policy whereby in an uncontested election of directors, any nominee who receives a greater number of "withhold" votes with respect to his or her election than votes "for" his or her election must offer their resignation. Action required or permitted to be taken at an annual or special meeting of stockholders may be taken without a meeting or vote if a written consent setting forth the action is signed by at least the minimum number of votes necessary to authorize or take such action at a meeting.

Liquidation

The holders of the common stock will share equally and ratably in Berry Corp.'s assets on liquidation after payment or provision for all liabilities and any preferential liquidation rights of any preferred stock then outstanding.

Other Rights

The holders of the common stock do not have preemptive rights to purchase shares of Berry Corp.'s stock. The common stock is not convertible, redeemable, assessable or entitled to the benefits of any sinking or repurchase fund. The rights, preferences and privileges of holders of the common stock will be subject to those of the holders of any shares of preferred stock that Berry Corp. may issue in the future.

Under the terms of the Certificate of Incorporation, Berry Corp. is prohibited from issuing any non-voting equity securities to the extent required under Section 1123(a)(6) of the U.S. Bankruptcy Code ("Bankruptcy Code") and only for so long as Section 1123 of the Bankruptcy Code is in effect and applicable to Berry Corp.

Preferred Stock

The Certificate of Incorporation authorizes our board of directors, subject to any limitations prescribed by law, without further stockholder approval, to establish and to issue from time to time one or more classes or series of preferred stock, par value \$0.001 per share, covering up to an aggregate of 250,000,000 shares of preferred stock. The board of directors may determine the number of shares in each such series and fix the designation, powers, preferences, rights, qualifications, limitations and restrictions of such series. The number of authorized shares of preferred stock may be increased or decreased by the affirmative vote of the holders of a majority of the voting power of all then-outstanding

shares of capital stock of Berry Corp. entitled to vote thereon, without a vote of the holders of the preferred stock, or of any series thereof, unless a vote of any such holders is required pursuant to the terms of any preferred stock designation.

Limitation of Liability of Directors and Indemnification Matters

The Certificate of Incorporation provides that no director shall be personally liable to Berry Corp. or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to Berry Corp. or its stockholders, (ii) for any act or omission not in good faith or which involves intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law (the "DGCL") or (iv) for any transaction from which the director derived an improper personal benefit. The effect of this provision is to eliminate Berry Corp.'s and its stockholders' rights, through stockholders' derivative suits on Berry Corp.'s behalf, to recover monetary damages against a director for certain breaches of fiduciary duty as a director.

Any amendment, repeal or modification of these provisions will be prospective only and would not affect any limitation on liability of a director for acts or omissions that occurred prior to any such amendment, repeal or modification.

Berry Corp. has entered into indemnification agreements with each of its directors and executive officers. These indemnification agreements require Berry Corp. to indemnify these individuals to the fullest extent permitted under Delaware law against liabilities that may arise by reason of their service as a director or executive officer of Berry Corp. In addition, Berry Corp. is also required to advance expenses incurred by such individuals in connection with any proceeding arising by reason of their service. The Certificate of Incorporation also provides that we will indemnify our directors and officers to the fullest extent permitted under Delaware law.

Anti-Takeover Provisions of the Certificate of Incorporation, the Bylaws and the DGCL

The Certificate of Incorporation, the Bylaws and the DGCL contain provisions that may have some anti-takeover effects and may delay, defer or prevent a takeover attempt or a removal of Berry Corp.'s incumbent officers or directors that a stockholder might consider in his, her or its best interest, including those attempts that might result in a premium over the market price for shares held by the stockholders.

Delays in or Prevention of a Change in Control

Provisions in Berry Corp.'s Bylaws could have an effect of delaying, deferring or preventing a change in control of Berry Corp.

Amendment of the Bylaws

The Certificate of Incorporation and the Bylaws grant to the board of directors the power to adopt, amend, restate or repeal the Bylaws, as permitted under the DGCL, provided that no bylaw adopted by the stockholders may be amended, repealed or readopted by the board of directors if such bylaw so provides. The stockholders may adopt, amend, restate or repeal the Bylaws but only by a vote of holders of a majority in voting power of the outstanding shares of stock entitled to vote thereon, voting together as a single class in addition to any approval required by law, the Bylaws or the terms of any preferred stock.

Other Limitations on Stockholder Actions

- Advance notice is required for stockholders to nominate directors or to submit proposals for consideration at meetings of stockholders. These procedures provide that notice of stockholder proposals must be timely given in writing to our corporate secretary prior to the meeting at which the action is to be taken. Generally, to be timely, notice must be received at our principal executive offices not less than 90 days nor more than 120 days prior to the first anniversary date we first mailed our proxy materials for the annual meeting for the preceding year. The Bylaws specify the requirements as to form and content of all stockholders' notices. These requirements may preclude stockholders from bringing matters before the stockholders at an annual or special meeting,

- Directors may be removed from office, either for or without cause, by the affirmative vote of the holders of a majority of the voting power of the then-outstanding shares of capital stock entitled to vote generally in the election of directors).
- Stockholders may call a special meeting only upon request of at least 25% of the voting power of the shares entitled to vote in the election of directors.

Forum Selection

The Certificate of Incorporation generally provides that unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (the “Court of Chancery”) will, to the fullest extent permitted by applicable law, be the sole and exclusive forum for:

- any derivative action or proceeding brought on our behalf;
- any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers or other employees to us or our stockholders;
- any action asserting a claim against us or our directors, officers or employees arising pursuant to any provision of the DGCL, our Certificate of Incorporation or Bylaws; or
- any action asserting a claim against us or our directors, officers or employees that is governed by the internal affairs doctrine;

in each such case subject to such Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein.

Although we believe these provisions will benefit us by providing increased consistency in the application of Delaware law for the specified types of actions and proceedings, the provisions may have the effect of discouraging lawsuits against our directors, officers, employees and agents. The enforceability of similar exclusive forum provisions in other companies’ certificates of incorporation has been challenged in legal proceedings, and it is possible that, in connection with one or more actions or proceedings described above, a court could rule that this provision in the Certificate of Incorporation is inapplicable or unenforceable.

Corporate Opportunity

Under the Certificate of Incorporation, to the extent permitted by law:

- our stockholders are permitted to make investments in competing businesses;
- if any individual who is a director of Berry Corp. and is otherwise an employee, officer or a director of a stockholder (each such person, a “Dual Role Person”) becomes aware of a potential business opportunity, transaction or other matter, they will have no duty to communicate or offer that opportunity to us; and
- we have renounced our interest in, or in being offered an opportunity to participate in, such corporate opportunities presented to a Dual Role Person.

Newly Created Directorships and Vacancies on the Board of Directors

Under the Bylaws, and subject to the Amended and Restated Stockholders Agreement, dated as of July 30, 2018, by and among Berry Corp. and the stockholders named therein (the “Stockholders Agreement”), any vacancies on the board of directors for any reason and any newly created directorships resulting from any increase in the number of directors may be filled (i) by the board of directors upon a vote of a majority of the remaining directors then in office, even if they constitute less than a quorum of the board of directors or by a sole remaining director or (ii) by the stockholders at a special or annual meeting or by written consent of holders of a majority of the voting power of the shares entitled to vote in connection with the election of the directors, voting together as a single class.

Registration Rights

The Amended and Restated Registration Rights Agreement, dated June 28, 2018, among Berry Corp. and the holder party thereto (the “Registration Rights Agreement”) generally requires us to file a shelf registration statement with the SEC as soon as practicable. We filed such shelf registration statement, as amended, with the SEC on December 11, 2018 (File No. 333-228740).

The Registration Rights Agreement also requires us to effect demand registrations, which the specified holders may request to be underwritten, and underwritten shelf takedowns from the initial shelf registration if requested by holders of a specified percentage of Registrable Securities (as defined in the Registration Rights Agreement), subject to customary conditions and restrictions. If Registrable Securities are to be distributed in an underwritten public offering and our common stock is not then listed on a national securities exchange or quoted on a recognized trading market, we must use commercially reasonable efforts to cause the Registrable Securities to be listed on a national securities exchange as promptly as practicable.

If we propose to file a registration statement under the Securities Act or conduct a shelf takedown with respect to a public offering of any class of our equity securities, the specified holders have “piggyback” registration rights to include their Registrable Securities in the registration statement subject to customary conditions and restrictions.

At any time when we are required to file public reports with the SEC under the Securities Act or the Exchange Act, the Registration Rights Agreement requires us to use commercially reasonable efforts to timely comply with the reporting requirements. If we are not subject to these reporting requirements, we must make available information necessary for the specified holders of Registrable Securities to resell their Registrable Securities in compliance with Section 4(a)(7), Rule 144, Rule 144A and Regulation S, if available, without registration under the Securities Act and within the limitations of the applicable exemptions.

The Registration Rights Agreement will terminate when there are no longer any Registrable Securities outstanding. As of August 9, 2019, there were 46,833,346 shares of our common stock registered for resale pursuant to our obligations under the Registration Rights Agreement.

Stockholders Agreement

Under the Stockholders Agreement, we are required to take all necessary action to cause the following two individuals to be nominated for election as directors of Berry Corp.:

- the individual serving as our Chief Executive Officer; and
- one individual designated by Benefit Street Partners (for so long as Benefit Street Partners beneficially owns at least ten percent of the common stock beneficially owned by all of the parties to the Stockholders Agreement).

Benefit Street Partners has the right under the Stockholders Agreement to designate a director to fill any vacancy created by the resignation or removal of its designee. Oaktree Capital Management also previously had the right to designate one individual for nomination for election as director, but effective September 12, 2018, Oaktree Capital Management relinquished this right under the Stockholders Agreement.

Under the Stockholders Agreement, no member of the Stockholder Group (as defined therein), nor any of their affiliates, will have any liability as a result of designating or nominating an individual to serve as a director for us, solely for any act or omission by such individual in her or her capacity as a director in accordance with the terms of the Stockholders Agreement.

The Stockholders Agreement will terminate automatically on February 28, 2020. The Stockholders Agreement may be terminated earlier by written agreement between us and the members of the Stockholder Group owning at least a majority of the common stock then beneficially owned by all members of the Stockholder Group; provided, however, except that any early termination also requires the written agreement of any member of the Stockholder Group that then has a right to appoint a director under the Stockholders Agreement.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company, LLC (“AST”). AST’s address is 6201 15th Avenue, Brooklyn, New York 11219, and AST’s phone number is (718) 921-8200.

Listing

Our common stock is listed on the NASDAQ under the symbol “BRY.”

PLAN OF DISTRIBUTION

We may sell securities pursuant to this prospectus and any accompanying prospectus supplement in and outside the United States (1) through underwriters or dealers, (2) directly to purchasers, including our affiliates and stockholders, (3) through agents, (4) in “at the market offerings” to or through a market maker or into an existing trading market, or in a rights offering or a securities exchange or otherwise or (5) through a combination of any of these methods. The prospectus supplement, if required, will include the following information:

- the terms of the offering;
- the names of any underwriters or agents;
- the name or names of any managing underwriter or underwriters;
- the purchase price of the securities;
- the estimated net proceeds to us from the sale of the securities;
- any delayed delivery arrangements;
- any underwriting discounts, commissions and other items constituting underwriters’ compensation;
- any discounts or concessions allowed or reallocated or paid to dealers; and
- any commissions paid to agents.

Sale Through Underwriters or Dealers

If underwriters are used in the sale, the underwriters will acquire the securities for their own account for resale to the public, either on a firm commitment basis or a best efforts basis. The underwriters may resell the securities from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. Underwriters may offer securities to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more firms acting as underwriters. Unless we inform you otherwise in the prospectus supplement, the obligations of the underwriters to purchase the securities will be subject to certain conditions. The underwriters may change from time to time any offering price and any discounts or concessions allowed or reallocated or paid to dealers.

During and after an offering through underwriters, the underwriters may purchase and sell the securities in the open market. These transactions may include overallocation and stabilizing transactions and purchases to cover syndicate short positions created in connection with the offering. The underwriters may also impose a penalty bid, which means that selling concessions allowed to syndicate members or other broker-dealers for the offered securities sold for their account may be reclaimed by the syndicate if the offered securities are repurchased by the syndicate in stabilizing or covering transactions. These activities may stabilize, maintain or otherwise affect the market price of the offered securities, which may be higher than the price that might otherwise prevail in the open market. If commenced, the underwriters may discontinue these activities at any time.

If dealers are used, we will sell the securities to them as principals. The dealers may then resell those securities to the public at varying prices determined by the dealers at the time of resale. We will include in the prospectus supplement the names of the dealers and the terms of the transaction.

Direct Sales and Sales Through Agents

We may sell the securities directly. In this case, no underwriters or agents would be involved. We may also sell the securities through agents designated from time to time. In the prospectus supplement, we will name any agent involved in the offer or sale of the offered securities, and we will describe any commissions payable to the agent. Unless

we inform you otherwise in the prospectus supplement, any agent will agree to use its reasonable best efforts to solicit purchases for the period of its appointment.

We may sell the securities directly to institutional investors or others who may be deemed to be underwriters within the meaning of the Securities Act with respect to any sale of securities. We will describe the terms of any such sales in the prospectus supplement.

Remarketing Arrangements

Offered securities may also be offered and sold, if so indicated in the applicable prospectus supplement, in connection with a remarketing upon their purchase, in accordance with a redemption or repayment pursuant to their terms, or otherwise, by one or more remarketing firms, acting as principals for their own accounts or as agents for us. Any remarketing firm will be identified and the terms of its agreements, if any, with us and its compensation will be described in the applicable prospectus supplement. Remarketing firms may be deemed to be underwriters, as that term is defined in the Securities Act, in connection with the securities remarketed.

Delayed Delivery Contracts

If we so indicate in the prospectus supplement, we may authorize agents, underwriters or dealers to solicit offers from certain types of institutions to purchase securities from us at the public offering price under delayed delivery contracts. These contracts would provide for payment and delivery on a specified date in the future. The contracts would be subject only to those conditions described in the prospectus supplement. The prospectus supplement will describe the commission payable for solicitation of those contracts.

General Information

We may have agreements with the agents, dealers, underwriters and remarketing firms to indemnify them against certain civil liabilities, including liabilities under the Securities Act, or to contribute with respect to payments that the agents, dealers, underwriters or remarketing firms may be required to make. Agents, dealers, underwriters and remarketing firms may be customers of, engage in transactions with, or perform services for us in the ordinary course of their businesses.

Unless otherwise specified in the applicable prospectus supplement each series of securities will be a new issue and will have no established trading market, other than our common stock, which is listed on the NASDAQ. We may elect to list any series of securities on an exchange, but we are not obligated to do so.

LEGAL MATTERS

The validity of our securities offered by this prospectus will be passed upon for us by Vinson & Elkins L.L.P., Houston, Texas. Any underwriters or agents will be advised about other issues relating to any offering by its own counsel to be named in an applicable prospectus supplement.

EXPERTS

The consolidated financial statements of Berry Petroleum Corporation and its subsidiary as of December 31, 2018 (Successor) and December 31, 2017 (Successor), and for the year ended December 31, 2018 (Successor), the ten months ended December 31, 2017 (Successor), the two months ended February 28, 2017 (Predecessor), and the year ended December 31, 2016 (Predecessor) have been incorporated by reference herein in reliance upon the report of KPMG LLP, independent registered public accounting firm, and upon the authority of said firm as experts in auditing and accounting. The audit report covering the December 31, 2018 consolidated financial statements refers to a change in the basis of presentation for Berry Petroleum Corporation's emergence from bankruptcy in 2017.

Certain estimates of our oil and natural gas reserves and related information included or incorporated by reference in this prospectus have been derived from reports prepared by the independent engineering firm, DeGolyer and MacNaughton. All such information has been so included on the authority of such firms as experts regarding the matters contained in their reports.



**Berry Petroleum Corporation
Berry Petroleum Company, LLC**

\$500,000,000

**Common Stock
Preferred Stock
Debt Securities
Guarantees of Debt Securities**

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution.

Set forth below is a table of the registration fee for the SEC and estimates of all other expenses to be paid by the registrants in connection with the issuance and distribution of the securities described in the registration statement:

SEC registration fee	\$	60,600
Accounting fees and expenses		*
Legal fees and expenses		*
Miscellaneous		*
Total	\$	*

* These fees are calculated based on the number of issuances and amount of securities offered and accordingly cannot be estimated at this time.

Item 15. Indemnification of Directors and Officers.

We are incorporated in Delaware. Under Section 145 of the DGCL, a Delaware corporation has the power, under specified circumstances, to indemnify its directors, officers, employees and agents in connection with actions, suits or proceedings, whether civil, criminal or administrative, brought against them by a third party or in the right of the corporation, by reason that they were or are such directors, officers, employees or agents, against expenses and liabilities incurred in any such action, suit or proceeding so long as they acted in good faith and in a manner that they reasonably believed to be in, or not opposed to, the best interests of such corporation, and with respect to any criminal action, that they had no reasonable cause to believe their conduct was unlawful. With respect to suits by or in the right of such corporation, however, indemnification is generally limited to attorneys' fees and other expenses and is not available if such person is adjudged to be liable to such corporation unless the court determines that indemnification is appropriate. A Delaware corporation also has the power to purchase and maintain insurance for such persons. The statute provides that it is not exclusive of other indemnification that may be granted by a corporation's certificate of incorporation, bylaws, disinterested director vote, stockholder vote, agreement or otherwise.

Section 102(b)(7) of the DGCL provides that a certificate of incorporation may contain a provision eliminating or limiting the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director provided that such provisions may not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 (relating to liability for unauthorized acquisitions or redemptions of, or dividends on, capital stock) of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. Article 9 of the Certificate of Incorporation limits its directors' personal liability to the fullest extent permitted by the DGCL. Article 10 of the Certificate of Incorporation provides that we will indemnify any director or officer who was or is a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that he or she is or was a director or officer of Berry Corp. or is or was serving at the request of Berry Corp. as a director, officer, manager, employee or agent of another corporation or of a limited liability company, partnership, joint venture, trust or other enterprise, except that we will indemnify any such person seeking indemnification in connection with a proceeding initiated by that person, only if that proceeding was authorized by the board of directors. The right to indemnification includes the right to be paid the expenses incurred in defending any such proceeding in advance of its final disposition.

We have also entered into indemnification agreements with each of our directors and officers who provide contractual rights to indemnity and expense advancement and include related provisions meant to facilitate the indemnitees' receipt of such benefits. Under these indemnification agreements, we must maintain directors and officers insurance. The terms of the indemnification agreements provide that we will indemnify the officers and directors against all losses that occur as a result of the indemnitee's corporate status, including, without limitation, all liability arising

out of the sole, contributory, comparative or other negligence, or active or passive wrongdoing of the indemnitee. Except with respect to certain specified matters, the only limitation that will exist upon our indemnification obligations pursuant to the agreements is that we are not obligated to make any payment to an indemnitee that is finally adjudged to be prohibited by applicable law. Under the indemnification agreements, we also agree to pay all expenses for which we may be jointly liable with an indemnitee and to waive any potential right of contribution we might otherwise have. Further, we agree to advance expenses to indemnitees in connection with proceedings brought as a result of the indemnitee's corporate status.

The above discussion of the Certificate of Incorporation, indemnification agreements with our officers and directors, and Sections 102(b)(7) and 145 of the DGCL is not intended to be exhaustive and is qualified in its entirety by such Certificate of Incorporation, indemnification agreements, and statutes.

Berry Corp. currently maintains an insurance policy which, within the limits and subject to the terms and conditions thereof, covers certain expenses and liabilities that may be incurred by directors and officers in connection with proceedings that may be brought against them as a result of an act or omission committed or suffered while acting as a director or officer.

Item 16. Exhibits.

Exhibit Number	Description
1.1**	Form of Underwriting Agreement
2.1	Amended Joint Chapter 11 Plan of Reorganization of Linn Acquisition Company, LLC and Berry Petroleum Company, LLC, dated January 25, 2017 (incorporated by reference to Exhibit 2.1 to the Company's Registration Statement on Form S-1 (File No. 333-226011))
3.1	Amended and Restated Certificate of Incorporation of Berry Petroleum Corporation (incorporated by reference to Exhibit 3.1 to the Company's Registration Statement on Form S-1 (File No. 333-226011))
3.2	Certificate of Amendment of Certificate of Incorporation (incorporated by reference to Exhibit 3.2 of Form 8-K filed July 30, 2018)
3.3	Second Amended and Restated Bylaws of Berry Petroleum Corporation (incorporated by reference to Exhibit 3.3 of Form 8-K filed July 30, 2018)
3.4	Certificate of Designation of Series A Convertible Preferred Stock of Berry Petroleum Corporation (incorporated by reference to Exhibit 3.4 to the Company's Registration Statement on Form S-1 (File No. 333-226011))
3.5	Certificate of Amendment to Certificate of Designation (incorporated by reference to Exhibit 3.1 of Form 8-K filed July 30, 2018)
4.1	Form of Common Stock Certificate of Berry Petroleum Corporation (incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-1 (File No. 333-226011))
4.2	Form of Series A Convertible Preferred Stock Certificate of Berry Petroleum Corporation (incorporated by reference to Exhibit 4.2 to the Company's Registration Statement on Form S-1 (File No. 333-226011))
4.3	Indenture dated as of February 8, 2018, among Berry Petroleum Company, LLC, Berry Petroleum Corporation and Wells Fargo Bank, N.A., as trustee (incorporated by reference to Exhibit 4.3 to the Company's Registration Statement on Form S-1 (File No. 333-226011))
4.4*	Form of Indenture related to Debt Securities
4.5**	Form of Debt Securities (including Form of Guarantee)
4.6**	Form of Preferred Stock Designation
5.1*	Opinion of Vinson & Elkins L.L.P.
23.1*	Consent of Vinson & Elkins L.L.P. (included in Exhibit 5.1)
23.2*	Consent of KPMG LLP
23.3*	Consent of DeGolyer and MacNaughton
24.1*	Powers of Attorney (included on signature pages)
25.1†	Statement of Eligibility and Qualification of the Trustee under the Senior Indenture under the Trust Indenture Act of 1939, as amended on Form T-1
99.1	Report as of December 31, 2018 of DeGolyer and MacNaughton (incorporated by reference to Exhibit 99.1 to the Company's Post-Effective Amendment No. 1 Registration Statement on Form S-1 (File No. 333-228740))

* Filed herewith.

** To be filed, if necessary, as an exhibit to a report pursuant to Section 13(a) or 15(d) of the Exchange Act or in a post-effective amendment to this registration statement.

† To be filed under subsection (a) of Section 310 of the Trust Indenture Act of 1939, as amended.

Item 17. Undertakings.

The undersigned registrants hereby undertake:

- (1) to file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement;
 - i. to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;
 - ii. to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and
 - iii. to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

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

(2) that, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof;

(3) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering;

(4) that, for purpose of determining liability under the Securities Act of 1933 to any purchaser:

- i. Each prospectus filed by the registrants pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and
- ii. Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which the prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date;

(5) That, for the purpose of determining liability of the registrants under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, each of the undersigned registrants undertakes that in a primary offering of securities of the undersigned registrants pursuant to this registration statement, regardless of the underwriting method

used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrants will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

- i. Any preliminary prospectus or prospectus of the undersigned registrants relating to the offering required to be filed pursuant to Rule 424;
- ii. Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrants or used or referred to by the undersigned registrants;
- iii. The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrants or their respective securities provided by or on behalf of an undersigned registrants; and
- iv. Any other communication that is an offer in any offering made by the undersigned registrants to the purchaser.

The undersigned registrants hereby undertake that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrants pursuant to the foregoing provisions, or otherwise, the registrants have been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrants of expenses incurred or paid by a director, officer or controlling person of the registrants in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrants will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

The undersigned registrants hereby undertake to file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Commission under Section 305(b)(2) of the Act.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrants have duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Dallas, State of Texas, on August 9, 2019.

Berry Petroleum Corporation

By: /s/ A. T. Smith

Name: A. T. "Trem" Smith

Title: President, Chief Executive Officer and Board Chair

Berry Petroleum Company, LLC

By: /s/ A. T. Smith

Name: A. T. "Trem" Smith

Title: President and Chief Executive Officer

Each person whose signature appears below hereby constitutes and appoints Arthur T. Smith, Cary D. Baetz and Kendrick F. Royer, and each of them, any of whom may act without the joinder of the other, as his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution for him in any and all capacities, to sign any or all amendments or post-effective amendments to this registration statement, or any registration statement for the same offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and to file the same, with exhibits hereto and other documents in connection therewith or in connection with the registration of the securities under the Securities Act of 1933, as amended, with the Securities and Exchange Commission, granting unto such attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary in connection with such matters and hereby ratifying and confirming all that such attorneys-in-fact and agents or his substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated on August 9, 2019.

Berry Petroleum Corporation

Signature	Title
<hr/> <i>/s/ A.T. Smith</i> A. T. "Trem" Smith	President, Chief Executive Officer, and Board Chair (Principal Executive Officer)
<hr/> <i>/s/ Cary Baetz</i> Cary Baetz	Executive Vice President and Chief Financial Officer, and Director (Principal Financial Officer)
<hr/> <i>/s/ Michael S. Helm</i> Michael S. Helm	Chief Accounting Officer (Principal Accounting Officer)
<hr/> <i>/s/ Eugene J. Voiland</i> Eugene J. Voiland	Director
<hr/> <i>/s/ Brent S. Buckley</i> Brent S. Buckley	Director
<hr/> <i>/s/ C. Kent Potter</i> C. Kent Potter	Director
<hr/> <i>/s/ Anne L. Mariucci</i> Anne L. Mariucci	Director
<hr/> <i>/s/ Donald Paul</i> Donald Paul	Director

Berry Petroleum Company, LLC

Signature	Title
<hr/> <i>/s/ A.T. Smith</i> A. T. "Trem" Smith	President, Chief Executive Officer, and Board Chair (Principal Executive Officer)
<hr/> <i>/s/ Cary Baetz</i> Cary Baetz	Executive Vice President and Chief Financial Officer, and Director (Principal Financial Officer)
<hr/> <i>/s/ Michael S. Helm</i> Michael S. Helm	Chief Accounting Officer (Principal Accounting Officer)

[BERRY PETROLEUM CORPORATION]
[BERRY PETROLEUM COMPANY, LLC]

AND

ANY GUARANTORS PARTY HERETO

DEBT SECURITIES

FORM OF INDENTURE

Dated as of

[],

As Trustee

CROSS-REFERENCE TABLE*

Trust Indenture Act Section	Indenture Section
310(a)(1)	7.10
(a)(2)	7.10
(a)(3)	N/A
(a)(4)	N/A
(a)(5)	7.10
(b)	7.08, 7.10
(c)	N/A
311(a)	7.11
(b)	7.11
(c)	N/A
312(a)	2.07
(b)	11.03
(c)	11.03
313(a)	7.06
(b)(1)	7.06
(b)(2)	7.06
(c)	7.06
(d)	7.06
314(a)	4.03, 4.04
(b)	N/A
(c)(1)	11.04
(c)(2)	11.04
(c)(3)	N/A
(d)	N/A
(e)	11.05
(f)	N/A
315(a)	7.01(b)
(b)	7.05
(c)	7.01(a)
(d)	7.01(c)
(e)	6.11
316(a)(last sentence)	2.08
(a)(1)(A)	6.05
(a)(1)(B)	6.04
(a)(2)	N/A
(b)	6.07
317(a)(1)	6.08
(a)(2)	6.09
(b)	2.06
318(a)	11.01
(b)	N/A
(c)	N/A

N/A means not applicable.

* This Cross-Reference Table is not part of the Indenture.

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INDENTURE dated as of _____, among [BERRY PETROLEUM CORPORATION, a Delaware corporation][BERRY PETROLEUM COMPANY, LLC, a Delaware limited liability company] (the "**Company**"), any Guarantors (as defined herein) party hereto and [_____] , as trustee (the "**Trustee**").

The Company and any Guarantors have duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of the Company's debentures, notes, bonds or other evidences of indebtedness to be issued in one or more series unlimited as to principal amount (herein called the "**Securities**"), and the related Guarantees (as hereinafter defined), if any, as provided in this Indenture.

The Company, Guarantors and Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the Securities:

Article I
Definitions and Incorporation by Reference

Section 1.01 Definitions.

"**Additional Amounts**" means any additional amounts required by the express terms of a Security or by or pursuant to a Board Resolution, under circumstances specified therein or pursuant thereto, to be paid by the Company or any Guarantor, as the case may be, with respect to certain taxes, assessments or other governmental charges imposed on certain Holders and that are owing to such Holders.

"**Affiliate**" of any specified Person means any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such specified Person. For purposes of this definition, "control" of a Person shall mean the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" shall have meanings correlative to the foregoing.

"**Agent**" means any Registrar or Paying Agent.

"**Bankruptcy Law**" means Title 11 of the United States Code or any similar federal, state or foreign law for the relief of debtors.

"**Board of Directors**" means:

- (1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership;
- (3) with respect to a limited liability company, the managing member or members or any controlling committee of managers, directors or members thereof or any board or committee serving a similar management function; and
- (4) with respect to any other Person, the individual or board or committee of such Person serving a management function similar to those described in clauses (1), (2) or (3) of this definition.

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

"**Business Day**" means any day that is not a Legal Holiday.

“**Company**” means the Person named as the “Company” in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Company” shall mean such successor Person; *provided, however*, that for purposes of any provision contained herein which is required by the TIA, “Company” shall also mean each other obligor (if any), other than a Guarantor, on the Securities of a series.

“**Company Order**” means a written request or order signed on behalf of the Company by one of its Officers and delivered to the Trustee.

“**Corporate Trust Office of the Trustee**” means the office of the Trustee located at [], Attention: [] and as may be located at such other address as the Trustee may give notice to the Company and the Guarantors.

“**Debt**” of any Person at any date means any obligation created or assumed by such Person for the repayment of borrowed money or a purchase obligation, or any guarantee thereof.

“**Default**” means any event, act or condition that is, or after notice or the passage of time or both would be, an Event of Default.

“**deliver**” or “**delivery**” means, in the context of certificated Securities, actual physical delivery of the certificated Securities to the relevant Person required hereunder, together with all endorsements, and in the context of Global Securities, the designation on the records of the Depository of a change in the beneficial interests of a holder in a Global Security.

“**Depository**” means, with respect to the Securities of any series issuable or issued in whole or in part in global form, the Person specified pursuant to Section 2.01 hereof as the initial Depository with respect to the Securities of such series, until a successor shall have been appointed and become such pursuant to the applicable provision of this Indenture, and thereafter “Depository” shall mean or include such successor.

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

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and any successor statute.

“**GAAP**” means the United States generally accepted accounting principles, as in effect from time to time.

“**Global Security**” means a Security that is issued in global form in the name of the Depository with respect thereto or its nominee.

“**Government Obligations**” means, with respect to a series of Securities, direct obligations of the government that issues the currency in which the Securities of the series are payable for the payment of which the full faith and credit of such government is pledged, or obligations of a Person controlled or supervised by and acting as an agency or instrumentality of such government, the payment of which is unconditionally guaranteed as a full faith and credit obligation by such government.

“**Guarantee**” means the guarantee of the Company’s obligations under the Securities of a series by a Guarantor (specified with respect to such series as contemplated by Section 2.01(9)) as provided in Article X.

“**Guarantors**” means, with respect to any series of Securities, the Person or Persons, if any, named in accordance with Section 2.01(9) as the “Guarantors” (i) in or pursuant to a Board Resolution, and set forth, or determined in the manner provided, in an Officers’ Certificate or in a Company Order, or (ii) in an indenture supplemental hereto establishing the terms of such series of Securities until a successor Person or Persons shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Guarantors” with respect to such series of Securities shall mean such successor Person or Persons, and any Subsidiary of the Company who may execute this Indenture, or a supplement thereto, for the purpose of providing a Guarantee for such series of Securities pursuant to this Indenture.

If a series of Securities does not have any Guarantors, all references in this Indenture to Guarantors shall be ignored with respect to such series of Securities.

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

“**Indenture**” means this Indenture as amended or supplemented from time to time pursuant to the provisions hereof, and includes the terms of a particular series of Securities established as contemplated by Section 2.01.

“**interest**” in the context of an Original Issue Discount Security that by its terms bears interest only after Maturity, interest payable after Maturity.

“**Interest Payment Date**,” when used with respect to any Security, shall have the meaning assigned to such term in the Security as contemplated by Section 2.01.

“**Issue Date**” means, with respect to Securities of a series, the first date on which the Securities of such series are originally issued under this Indenture.

“**Legal Holiday**” means a Saturday, a Sunday or a day on which banking institutions in any of The City of New York, New York or a Place of Payment are authorized or obligated by law, regulation or executive order to remain closed.

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

“**Officer**” means with respect to any Person, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary, any Assistant Secretary or any Vice President of such Person.

“**Officers’ Certificate**” means a certificate signed on behalf of the Company by any two of its Officers.

“**Opinion of Counsel**” means a written opinion from legal counsel who is acceptable to the Trustee. Such counsel may be an employee of or counsel to the Company, a Guarantor or the Trustee.

“**Original Issue Discount Security**” means any Security that provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 6.02.

“**Person**” means any individual, corporation, partnership, limited liability company, joint venture, incorporated or unincorporated association, joint stock company, trust, unincorporated organization or government or other agency, instrumentality or political subdivision thereof or other entity of any kind.

“**Place of Payment**” means, with respect to the Securities of any series, the place or places where the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of that series are payable as specified in accordance with Section 2.01 subject to the provisions of Section 4.02.

“**principal**” of a Security means the principal of the Security plus, when appropriate, the premium, if any, on the Security.

“**Redemption Date**” means, with respect to any Security to be redeemed, the date fixed for such redemption by or pursuant to this Indenture.

“**Redemption Price**” means, with respect to any Security to be redeemed, the price at which it is to be redeemed pursuant to this Indenture.

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

“**Rule 144A Securities**” means Securities of a series designated pursuant to Section 2.01 as entitled to the benefits of Section 4.03(2).

“**SEC**” means the Securities and Exchange Commission.

“**Securities**” has the meaning stated in the preamble of this Indenture and more particularly means any Securities authenticated and delivered under this Indenture.

“**Securities Act**” means the Securities Act of 1933, as amended.

“**Security Custodian**” means, with respect to Securities of a series issued in global form, the Trustee for Securities of such series, as custodian with respect to the Securities of such series, or any successor entity thereto.

“**Significant Subsidiary**” means a Subsidiary of the Company that is a “significant subsidiary” of the Company as such term is defined in Rule 1-02(w) of Regulation S-X as in effect on the date hereof.

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

“**Subsidiary**” of any Person means:

(1) any corporation, association or other business entity of which more than 50% of the total voting power of equity interests entitled, without regard to the occurrence of any contingency, to vote in the election of directors, managers, trustees or equivalent Persons thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person or any combination thereof; or

(2) a partnership (a) the sole general partner or the managing partner of which is such Person or a Subsidiary of such Person, (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof) or (c) of which more than 50% of the partners’ equity interests, considering all partners’ equity interests as a single class, is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person or any combination thereof.

“**surrender**” shall have the same meaning as “deliver” in the context of the surrender of a Security.

“**TIA**” means the Trust Indenture Act of 1939, as amended, as in effect on the date hereof; *provided, however*, that, in the event the Trust Indenture Act of 1939 is amended after such date, “TIA” means, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

“**Trustee**” means the Person named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture, and thereafter “Trustee” means each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series means the Trustee with respect to Securities of that series.

“**United States**” means the United States of America (including the States and the District of Columbia) and its territories and possessions, which include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

“**U.S. Government Obligations**” means Government Obligations with respect to Securities payable in Dollars.

Section 1.02 Other Definitions.

Term	Defined in Section
“Agent Members”	2.17
“Bankruptcy Custodian”	6.01
“covenant defeasance”	8.01
“EDGAR”	4.03
“Event of Default”	6.01
“Exchange Rate”	2.11
“Funding Guarantor”	10.05
“Judgment Currency”	6.10
“legal defeasance”	8.01
“mandatory sinking fund payment”	3.09
“optional sinking fund payment”	3.09
“Paying Agent”	2.05
“Registrar”	2.05
“Required Currency”	6.10
“Successor”	5.01

Section 1.03 Incorporation by Reference of Trust Indenture Act.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture (and if the Indenture is not qualified under the TIA at that time, as if it were so qualified unless otherwise provided). The following TIA terms used in this Indenture have the following meanings:

“**Commission**” means the SEC.

“**indenture securities**” means the Securities.

“**indenture security holder**” means a Holder.

“**indenture to be qualified**” means this Indenture.

“**indenture trustee**” or “**institutional trustee**” means the Trustee.

“**obligor**” on the indenture securities means the Company, any Guarantor or any other obligor on the Securities.

All terms used in this Indenture that are defined by the TIA, defined by a TIA reference to another statute or defined by an SEC rule under the TIA have the meanings so assigned to them.

Section 1.04 Rules of Construction.

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) “or” is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular;
- (5) provisions apply to successive events and transactions; and
- (6) all references in this instrument to Articles and Sections are references to the corresponding Articles and Sections in and of this instrument.

Article II
The Securities

Section 2.01 Amount Unlimited; Issuable in Series.

The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution, and set forth, or determined in the manner provided, in an Officers' Certificate or in a Company Order, or established in one or more indentures supplemental hereto, prior to the issuance of Securities of any series:

- (1) the title of the Securities of the series (which shall distinguish the Securities of the series from the Securities of all other series);
- (2) if there is to be a limit, the limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.08, Section 2.09, Section 2.12, Section 2.17, Section 3.07 or Section 9.05 and except for any Securities which, pursuant to Section 2.04 or Section 2.17, are deemed never to have been authenticated and delivered hereunder); provided, however, that unless otherwise provided in the terms of the series, the authorized aggregate principal amount of such series may be increased before or after the issuance of any Securities of the series by a Board Resolution (or action pursuant to a Board Resolution) to such effect;
- (3) whether any Securities of the series are to be issuable initially in temporary global form and whether any Securities of the series are to be issuable in permanent global form, as Global Securities or otherwise, and, if so, whether beneficial owners of interests in any such Global Security may exchange such interests for Securities of such series and of like tenor of any authorized form and denomination and the circumstances under which any such exchanges may occur, if other than in the manner provided in Section 2.17, and the initial Depositary and Security Custodian, if any, for any Global Security or Securities of such series;
- (4) the manner in which any interest payable on a temporary Global Security on any Interest Payment Date will be paid if other than in the manner provided in Section 2.14;
- (5) the date or dates on which the principal of and premium (if any) on the Securities of the series is payable or the method of determination thereof;
- (6) the rate or rates, or the method of determination thereof, at which the Securities of the series shall bear interest, if any, whether and under what circumstances Additional Amounts with respect to such

Securities shall be payable, the date or dates from which such interest shall accrue, the Interest Payment Dates on which such interest shall be payable and the record date for the interest payable on any Securities on any Interest Payment Date, or if other than provided herein, the Person to whom any interest on Securities of the series shall be payable;

(7) the place or places where, subject to the provisions of Section 4.02, the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series shall be payable;

(8) the period or periods within which, the price or prices (whether denominated in cash, securities or otherwise) at which and the terms and conditions upon which Securities of the series may be redeemed, in whole or in part, at the option of the Company, if the Company is to have that option, and the manner in which the Company must exercise any such option, if different from those set forth herein;

(9) whether Securities of the series are entitled to the benefits of any Guarantee of any Guarantor pursuant to this Indenture, the identity of any such Guarantors and any terms of such Guarantee with respect to the Securities of the series in addition to those set forth in Article X, or any exceptions to or changes to those set forth in Article X;

(10) the obligation, if any, of the Company to redeem, purchase or repay Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof and the period or periods within which the price or prices (whether denominated in cash, securities or otherwise) at which and the terms and conditions upon which Securities of the series shall be redeemed, purchased or repaid in whole or in part pursuant to such obligation;

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

(12) if other than Dollars, the currency or currencies (including composite currencies) or the form, including equity securities, other debt securities (including Securities), warrants or any other securities or property of the Company, any Guarantor or any other Person, in which payment of the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series shall be payable;

(13) if the principal of, premium (if any) or interest on or any Additional Amounts with respect to the Securities of the series are to be payable, at the election of the Company or a Holder thereof, in a currency or currencies (including composite currencies) other than that in which the Securities are stated to be payable, the currency or currencies (including composite currencies) in which payment of the principal of, premium (if any) and interest on and any Additional Amounts with respect to Securities of such series as to which such election is made shall be payable, and the periods within which and the terms and conditions upon which such election is to be made;

(14) if the amount of payments of principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series may be determined with reference to any commodities, currencies or indices, values, rates or prices or any other index or formula, the manner in which such amounts shall be determined;

(15) if other than the entire principal amount thereof, the portion of the principal amount of Securities of the series that shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 6.02;

(16) any additional means of satisfaction and discharge of this Indenture and any additional conditions or limitations to discharge with respect to Securities of the series and the related Guarantees, if any, pursuant to Article VIII or any modifications of or deletions from such conditions or limitations;

(17) any deletions or modifications of or additions to the Events of Default set forth in Section 6.01 or covenants of the Company or any Guarantor set forth in Article IV pertaining to the Securities of the series;

(18) any restrictions or other provisions with respect to the transfer or exchange of Securities of the series, which may amend, supplement, modify or supersede those contained in this Article II;

(19) if the Securities of the series are to be convertible into or exchangeable for capital stock, other debt securities (including Securities), warrants, other equity securities or any other securities or property of the Company, any Guarantor or any other Person, at the option of the Company or the Holder or upon the occurrence of any condition or event, the terms and conditions for such conversion or exchange;

(20) whether the Securities of the series are to be entitled to the benefit of Section 4.03(2) (and accordingly constitute Rule 144A Securities); and

(21) any other terms of the series (which terms shall not be prohibited by the provisions of this Indenture).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the Board Resolution referred to above and (subject to Section 2.03) set forth, or determined in the manner provided, in the Officers' Certificate or Company Order referred to above or in any such indenture supplemental hereto.

If any of the terms of the series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action, together with such Board Resolution, shall be set forth in an Officers' Certificate or certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate or Company Order setting forth the terms of the series.

Section 2.02 Denominations.

The Securities of each series shall be issuable in such denominations as shall be specified as contemplated by Section 2.01. In the absence of any such provisions with respect to the Securities of any series, the Securities of such series denominated in Dollars shall be issuable in denominations of \$1,000 and any integral multiples thereof.

Section 2.03 Forms Generally.

The Securities of each series shall be in fully registered form and in substantially such form or forms (including temporary or permanent global form) established by or pursuant to a Board Resolution or in one or more indentures supplemental hereto. The Securities may have notations, legends or endorsements required by law, securities exchange rules, the Company's certificate of incorporation, bylaws or other similar governing documents, agreements to which the Company is subject, if any, or usage (*provided* that any such notation, legend or endorsement is in a form acceptable to the Company). A copy of the Board Resolution establishing the form or forms of Securities of any series shall be delivered to the Trustee at or prior to the delivery of the Company Order contemplated by Section 2.04 for the authentication and delivery of such Securities.

The definitive Securities of each series shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the Officers executing such Securities, as evidenced by their execution thereof.

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

"This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

[], as Trustee

By: _____
Authorized Signatory”.

Section 2.04 Execution, Authentication, Delivery and Dating.

At least one Officer of the Company shall sign the Securities on behalf of the Company and, with respect to any related Guarantees, an Officer of each Guarantor shall sign the Notation of Guarantee on behalf of such Guarantor, in each case by manual, facsimile or electronic signature.

If an Officer of the Company or a Guarantor whose signature is on a Security no longer holds that office at the time the Security or the Notation of Guarantee, as the case may be, is authenticated, the Security shall be valid nevertheless.

A Security shall not be entitled to any benefit under this Indenture or the related Guarantees, if any, or be valid or obligatory for any purpose until authenticated by the manual signature of an authorized signatory of the Trustee, which signature shall be conclusive evidence that the Security has been authenticated under this Indenture. Notwithstanding the foregoing, if any Security has been authenticated and delivered hereunder but never issued and sold by the Company, and the Company delivers such Security to the Trustee for cancellation as provided in Section 2.13, together with a written statement (which need not comply with Section 11.05 and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and sold by the Company, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture or the related Guarantees, if any.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company (and if applicable, the Notation of Guarantee for such series executed by each Guarantor with respect to such series) to the Trustee for authentication, and the Trustee shall authenticate and deliver such Securities for original issue upon a Company Order for the authentication and delivery of such Securities or pursuant to such procedures acceptable to the Trustee as may be specified from time to time by Company Order. Such order shall specify the amount of the Securities to be authenticated, the date on which the original issue of Securities is to be authenticated, the name or names of the initial Holder or Holders and any other terms of the Securities of such series not otherwise determined. If provided for in such procedures, such Company Order may authorize (1) authentication and delivery of Securities of such series for original issue from time to time, with certain terms (including, without limitation, the Maturity date or dates, original issue date or dates and interest rate or rates) that differ from Security to Security and (2) may authorize authentication and delivery pursuant to oral or electronic instructions from the Company or its duly authorized agent, which instructions shall be promptly confirmed in writing.

If the form or terms of the Securities of the series have been established in or pursuant to one or more Board Resolutions as permitted by Section 2.01, in authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive (in addition to the Company Order referred to above and the other documents required by Section 11.04), and (subject to Section 7.01) shall be fully protected in relying upon:

- (1) an Officers’ Certificate setting forth the Board Resolution and, if applicable, an appropriate record of any action taken pursuant thereto, as contemplated by the last paragraph of Section 2.01; and
- (2) an Opinion of Counsel substantially to the effect that:
 - (a) the form of such Securities has been established in conformity with the provisions of this Indenture;
 - (b) the terms of such Securities have been established in conformity with the provisions of this Indenture; and

(c) that when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, such Securities and the related Guarantees, if any, will constitute valid and binding obligations of the Company and the Guarantors, respectively, enforceable against the Company and the Guarantors, respectively, in accordance with their respective terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or transfer or other similar laws in effect from time to time affecting the rights of creditors generally, and the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

If all the Securities of any series are not to be issued at one time, it shall not be necessary to deliver an Officers' Certificate and Opinion of Counsel at the time of issuance of each such Security, but such Officers' Certificate and Opinion of Counsel shall be delivered at or before the time of issuance of the first Security of the series to be issued.

The Trustee shall not be required to authenticate such Securities if the issuance of such Securities pursuant to this Indenture would affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner not reasonably acceptable to the Trustee.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Securities. Unless limited by the terms of such appointment, an authenticating agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with the Company, any Guarantor or any other Affiliate of the Company or any Guarantor.

Each Security shall be dated the date of its authentication.

Section 2.05 Registrar and Paying Agent.

The Company shall maintain an office or agency for each series of Securities where Securities of such series may be presented for registration of transfer or exchange ("**Registrar**") and an office or agency where Securities of such series may be presented for payment ("**Paying Agent**"). The Registrar shall keep a register of the Securities of such series and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent.

The Company shall enter into an appropriate agency agreement with any Registrar or Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such Agent. The Company shall notify the Trustee of the name and address of any Agent not a party to this Indenture. The Company may change any Paying Agent or Registrar without notice to any Holder. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company, any Guarantor or any Subsidiary may act as Paying Agent or Registrar.

The Company initially appoints the Trustee as Registrar and Paying Agent.

Section 2.06 Paying Agent to Hold Money in Trust.

The Company shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal of, premium, if any, or interest on or any Additional Amounts with respect to Securities and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed. Upon payment over to the Trustee and upon accounting for any funds disbursed, the Paying Agent (if other than the Company, a Guarantor or a Subsidiary of the Company) shall have no further liability for the money. If

the Company, a Guarantor or a Subsidiary of the Company acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Each Paying Agent shall otherwise comply with TIA § 317(b).

Section 2.07 Section 2.07 Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar with respect to a series of Securities, the Company shall furnish to the Trustee at least five Business Days before each Interest Payment Date with respect to such series of Securities, and at such other times as the Trustee may request in writing within 30 days after the receipt by the Company of any such request, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders of such series, and the Company shall otherwise comply with TIA § 312(a).

Section 2.08 Transfer and Exchange.

Except as set forth in Section 2.17 or as may be provided pursuant to Section 2.01:

When Securities of any series are presented to the Registrar with the request to register the transfer of such Securities or to exchange such Securities for an equal principal amount of Securities of the same series of like tenor and of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its requirements and the requirements of this Indenture for such transactions are met; *provided, however*, that the Securities presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instruction of transfer in form reasonably satisfactory to the Registrar duly executed by the Holder thereof or by his attorney, duly authorized in writing, on which instruction the Registrar can rely.

To permit registrations of transfers and exchanges, the Company shall execute Securities (and if applicable, each Guarantor with respect to such series shall execute the Notation of Guarantee for such series) and the Trustee shall authenticate such Securities at the Registrar's written request and submission of the Securities or Global Securities. No service charge shall be made to a Holder for any registration of transfer or exchange (except as otherwise expressly permitted herein), but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than such transfer tax or similar governmental charge payable upon exchanges pursuant to Section 2.12, Section 3.07 or Section 9.05). The Trustee shall authenticate such Securities in accordance with the provisions of Section 2.04. Notwithstanding any other provisions of this Indenture to the contrary, the Company shall not be required to register the transfer or exchange of (a) any Security selected for redemption in whole or in part pursuant to Article III, except the unredeemed portion of any Security being redeemed in part, or (b) any Security during the period beginning 15 Business Days prior to the mailing of notice of any offer to repurchase Securities of the series required pursuant to the terms thereof or of redemption of Securities of a series to be redeemed and ending at the close of business on the day of mailing.

Section 2.09 Replacement Securities.

If any mutilated Security is surrendered to the Trustee, or if the Holder of a Security claims that the Security has been destroyed, lost or stolen and the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of such Security, the Company shall issue, each Guarantor with respect to such series shall execute the Notation of Guarantee relating to such Security, if any, and the Trustee shall authenticate a replacement Security of the same series if the Trustee's requirements are met. If any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security. If required by the Trustee, any Guarantor or the Company, such Holder must furnish an indemnity bond that is sufficient in the judgment of the Trustee and the Company to protect the Company, each Guarantor, the Trustee, any Agent or any authenticating agent from any loss that any of them may suffer if a Security is replaced. The Company and the Trustee may charge a Holder for their expenses in replacing a Security.

Every replacement Security is an additional obligation of the Company.

Section 2.10 Outstanding Securities.

The Securities outstanding at any time are all the Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Security effected by the Trustee hereunder and those described in this Section 2.10 as not outstanding.

If a Security is replaced pursuant to Section 2.09, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Security is held by a bona fide purchaser.

If the principal amount of any Security is considered paid under Section 4.01, it ceases to be outstanding and interest on it ceases to accrue.

A Security does not cease to be outstanding because the Company, a Guarantor or an Affiliate of the Company or a Guarantor holds the Security.

Section 2.11 Original Issue Discount, Foreign-Currency Denominated and Treasury Securities.

In determining whether the Holders of the required principal amount of Securities have concurred in any direction, amendment, supplement, waiver or consent, (a) the principal amount of an Original Issue Discount Security shall be the principal amount thereof that would be due and payable as of the date of such determination upon acceleration of the Maturity thereof pursuant to Section 6.02, (b) the principal amount of a Security denominated in a foreign currency shall be the Dollar equivalent, as determined by the Company by reference to the noon buying rate in The City of New York for cable transfers for such currency, as such rate is certified for customs purposes by the Federal Reserve Bank of New York (the "**Exchange Rate**") on the date of original issuance of such Security, of the principal amount (or, in the case of an Original Issue Discount Security, the Dollar equivalent, as determined by the Company by reference to the Exchange Rate on the date of original issuance of such Security, of the amount determined in (a) above), of such Security and (c) Securities owned by the Company, a Guarantor or any other obligor upon the Securities or any Affiliate of the Company, of a Guarantor or of such other obligor shall be disregarded, except that, for the purpose of determining whether the Trustee shall be protected in relying upon any such direction, amendment, supplement, waiver or consent, only Securities that a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded.

Section 2.12 Temporary Securities.

Until definitive Securities of any series are ready for delivery, the Company may prepare and execute temporary Securities, each Guarantor with respect to such series shall execute the Notation of Guarantee relating to such Security relating to such temporary Securities, if any, and the Trustee shall authenticate temporary Securities. Temporary Securities shall be substantially in the form of definitive Securities, but may have variations that the Company considers appropriate for temporary Securities. Without unreasonable delay, the Company shall prepare and execute definitive Securities, each Guarantor with respect to such series shall execute the Notation of Guarantee relating to such definitive Security, if any, and the Trustee shall authenticate such definitive Securities in exchange for temporary Securities. Until so exchanged, the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities.

Section 2.13 Cancellation.

The Company or any Guarantor at any time may deliver Securities to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Securities surrendered to them for registration of transfer, exchange, payment or redemption or for credit against any sinking fund payment. The Trustee shall cancel all Securities surrendered for registration of transfer, exchange, payment, redemption, replacement or cancellation or for credit against any sinking fund. Unless the Company shall direct in writing that canceled Securities be returned to it, after written notice to the Company all canceled Securities held by the Trustee shall be disposed of in accordance with the usual disposal procedures of the Trustee, and the Trustee shall maintain a record of their disposal. The Company may not issue new Securities to replace Securities that have been paid or that have been delivered to the Trustee for cancellation.

Section 2.14 Payments; Defaulted Interest.

Unless otherwise provided as contemplated by Section 2.01, interest (except defaulted interest) on any Security that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Persons who are registered Holders of that Security at the close of business on the record date next preceding such Interest Payment Date, even if such Securities are canceled after such record date and on or before such Interest Payment Date. The Holder must surrender a Security to a Paying Agent to collect principal payments. Unless otherwise provided with respect to the Securities of any series, the Company will pay the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities in Dollars. Such amounts shall be payable at the offices of the Trustee or any Paying Agent, *provided* that at the option of the Company, the Company may pay such amounts (1) by wire transfer with respect to Global Securities or (2) by check payable in such money mailed to a Holder's registered address with respect to any Securities.

If the Company defaults in a payment of interest on the Securities of any series, the Company shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest on the defaulted interest, in each case at the rate provided in the Securities of such series and in Section 4.01. The Company may pay the defaulted interest to the Persons who are Holders on a subsequent special record date. At least 15 days before any special record date selected by the Company, the Company (or the Trustee, in the name of and at the expense of the Company upon 20 days' prior written notice from the Company setting forth such special record date and the interest amount to be paid) shall mail to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.15 Persons Deemed Owners.

The Company, the Guarantors, the Trustee, any Agent and any authenticating agent may treat the Person in whose name any Security is registered as the owner of such Security for the purpose of receiving payments of principal of, premium (if any) or interest on or any Additional Amounts with respect to such Security and for all other purposes. None of the Company, any Guarantor, the Trustee, any Agent or any authenticating agent shall be affected by any notice to the contrary.

Section 2.16 Computation of Interest.

Except as otherwise specified as contemplated by Section 2.01 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a year comprising twelve 30-day months.

Section 2.17 Global Securities; Book-Entry Provisions.

If Securities of a series are issuable in global form as a Global Security, as contemplated by Section 2.01, then, notwithstanding clause (11) of Section 2.01 and the provisions of Section 2.02, any such Global Security shall represent such of the outstanding Securities of such series as shall be specified therein and may provide that it shall represent the aggregate amount of outstanding Securities from time to time endorsed thereon and that the aggregate amount of outstanding Securities represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, transfers or redemptions. Any endorsement of a Global Security to reflect the amount, or any increase or decrease in the amount, of outstanding Securities represented thereby shall be made by the Trustee (i) in such manner and upon instructions given by such Person or Persons as shall be specified in such Security or in a Company Order to be delivered to the Trustee pursuant to Section 2.04 or (ii) otherwise in accordance with written instructions or such other written form of instructions as is customary for the Depository for such Security, from such Depository or its nominee on behalf of any Person having a beneficial interest in such Global Security. Subject to the provisions of Section 2.04 and, if applicable, Section 2.12, the Trustee shall deliver and redeliver any Security in permanent global form in the manner and upon instructions given by the Person or Persons specified in such Security or in the applicable Company Order. With respect to the Securities of any series that are represented by a Global Security, the Company and the Guarantors authorize the execution and delivery by the Trustee of a letter of representations or other similar agreement or instrument in the form customarily provided for by the Depository appointed with respect to such Global Security. Any Global Security may be deposited with the Depository or its nominee, or may remain in the custody of

the Trustee or the Security Custodian therefor pursuant to a FAST Balance Certificate Agreement or similar agreement between the Trustee and the Depository. If a Company Order has been, or simultaneously is, delivered, any instructions by the Company with respect to endorsement or delivery or redelivery of a Security in global form shall be in writing but need not comply with Section 11.05 and need not be accompanied by an Opinion of Counsel.

Members of, or participants in, the Depository (“**Agent Members**”) shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Depository, or the Trustee or the Security Custodian as its custodian, or under such Global Security, and the Depository may be treated by the Company, any Guarantor, the Trustee or the Security Custodian and any agent of the Company, any Guarantor, the Trustee or the Security Custodian as the absolute owner of such Global Security for all purposes whatsoever. Notwithstanding the foregoing, (i) the registered holder of a Global Security of a series may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action that a Holder of Securities of such series is entitled to take under this Indenture or the Securities of such series and (ii) nothing herein shall prevent the Company, any Guarantor, the Trustee or the Security Custodian, or any agent of the Company, any Guarantor, the Trustee or the Security Custodian, from giving effect to any written certification, proxy or other authorization furnished by the Depository or shall impair, as between the Depository and its Agent Members, the operation of customary practices governing the exercise of the rights of a beneficial owner of any Security.

Notwithstanding Section 2.08, and except as otherwise provided pursuant to Section 2.01, transfers of a Global Security shall be limited to transfers of such Global Security in whole, but not in part, to the Depository, its successors or their respective nominees. Interests of beneficial owners in a Global Security may be transferred in accordance with the rules and procedures of the Depository. Securities shall be transferred to all beneficial owners in exchange for their beneficial interests in a Global Security if, and only if, either (1) the Depository notifies the Company that it is unwilling or unable to continue as Depository for the Global Security and a successor Depository is not appointed by the Company within 90 days of such notice, (2) an Event of Default has occurred with respect to such series and is continuing and the Registrar has received a request from the Depository to issue Securities in lieu of all or a portion of the Global Security (in which case the Company shall deliver Securities within 30 days of such request) or (3) the Company in its sole discretion determines not to have the Securities represented by a Global Security.

In connection with any transfer of a portion of the beneficial interests in a Global Security to beneficial owners pursuant to this Section 2.17, the Registrar shall reflect on its books and records the date and a decrease in the principal amount of the Global Security in an amount equal to the principal amount of the beneficial interests in the Global Security to be transferred, and the Company shall execute, each Guarantor with respect to such series shall execute the Notation of Guarantee relating to such Global Security, if any, and the Trustee upon receipt of a Company Order for the authentication and delivery of Securities shall authenticate and deliver, one or more Securities of the same series of like tenor and amount.

In connection with the transfer of all of the beneficial interests in a Global Security to beneficial owners pursuant to this Section 2.17, the Global Security shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, each Guarantor with respect to such series shall execute the Notation of Guarantee relating to such Global Security, if any, and the Trustee shall authenticate and deliver, to each beneficial owner identified by the Depository in exchange for its beneficial interests in the Global Security, an equal aggregate principal amount of Securities of authorized denominations.

None of the Company, any Guarantor or the Trustee will have any responsibility or liability for any aspect of the records relating to, or payments made on account of, Securities by the Depository, or for maintaining, supervising or reviewing any records of the Depository relating to such Securities. None of the Company, any Guarantor or the Trustee shall be liable for any delay by the Holder of the Global Security or the Depository in identifying the beneficial owners, and each such Person may conclusively rely on, and shall be protected in relying on, instructions from such Holder of the Global Security or the Depository for all purposes (including with respect to the registration and delivery, and the respective principal amounts, of the Securities to be issued).

The provisions of the last sentence of the third paragraph of Section 2.04 shall apply to any Global Security if such Global Security was never issued and sold by the Company and the Company or a Guarantor delivers to the

Trustee the Global Security together with written instructions (which need not comply with Section 11.05 and need not be accompanied by an Opinion of Counsel) with regard to the cancellation or reduction in the principal amount of Securities represented thereby, together with the written statement contemplated by the last sentence of the third paragraph of Section 2.04.

Notwithstanding the provisions of Section 2.03 and Section 2.14, unless otherwise specified as contemplated by Section 2.01, payment of principal of, premium (if any) and interest on and any Additional Amounts with respect to any Global Security shall be made to the Depository.

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

Notwithstanding anything herein to the contrary, delivery or surrender of a Security shall not be required in the case of Global Securities in order to obtain the rights or benefits provided hereunder upon the delivery or surrender of a Security.

Article III Redemption

Section 3.01 Applicability of Article.

Securities of any series that are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 2.01 for Securities of any series) in accordance with this Article III.

Section 3.02 Notice to the Trustee.

If the Company elects to redeem Securities of any series pursuant to this Indenture, it shall notify the Trustee of the Redemption Date and the principal amount of Securities of such series to be redeemed. The Company shall so notify the Trustee at least 45 days before the Redemption Date (unless a shorter notice shall be satisfactory to the Trustee) by delivering to the Trustee an Officers' Certificate stating that such redemption will comply with the provisions of this Indenture and of the Securities of such series. Any such notice may be canceled at any time prior to the mailing of such notice of such redemption to any Holder and shall thereupon be void and of no effect. A redemption or notice thereof may be subject to one or more conditions.

Section 3.03 Selection of Securities To Be Redeemed.

If less than all of the Securities of any series are to be redeemed (unless all of the Securities of such series of a specified tenor are to be redeemed), the particular Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee from the outstanding Securities of such series (and tenor) not previously called for redemption, either pro rata, by lot or by such other method as the Trustee shall deem appropriate in accordance with industry standards at the time of such redemption and that may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Securities of that series or any integral multiple thereof) of the principal amount of Securities of such series of a denomination larger than the minimum authorized denomination for Securities of that series or of the principal amount of Global Securities of such series; *provided* that, if at the time of redemption such Securities are registered as a Global Security, the Depository shall determine, in accordance with its procedures, the principal amount of such Securities held by each beneficial owner of Securities to be redeemed.

The Trustee shall promptly notify the Company and the Registrar in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

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

Section 3.04 Notice of Redemption.

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed, at the address of such Holder appearing in the register of Securities maintained by the Registrar.

All notices of redemption shall identify the Securities to be redeemed and shall state:

- (1) the Redemption Date;
- (2) the Redemption Price (or the method of calculating or determining the Redemption Price);
- (3) that, unless the Company and the Guarantors default in making the redemption payment, interest on Securities called for redemption ceases to accrue on and after the Redemption Date, and the only remaining right of the Holders of such Securities is to receive payment of the Redemption Price upon surrender to the Paying Agent of the Securities redeemed;
- (4) if any Security is to be redeemed in part, the portion of the principal amount thereof to be redeemed and that on and after the Redemption Date, upon surrender for cancellation of such Security to the Paying Agent, a new Security or Securities in the aggregate principal amount equal to the unredeemed portion thereof will be issued without charge to the Holder;
- (5) that Securities called for redemption must be surrendered to the Paying Agent to collect the Redemption Price and the name and address of the Paying Agent;
- (6) that the redemption is for a sinking or analogous fund, if such is the case;
- (7) the CUSIP or ISIN number, if any, relating to such Securities; and
- (8) if the redemption or notice thereof is subject to one or more conditions, a statement to such effect and the condition or conditions precedent.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's written request, by the Trustee in the name and at the expense of the Company; *provided, however*, that the Company shall have delivered to the Trustee at least 45 days before the Redemption Date (unless a shorter notice shall be satisfactory to the Trustee), as provided in Section 3.02, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the second preceding paragraph.

Section 3.05 Effect of Notice of Redemption.

Once notice of redemption is mailed, unless the redemption or notice thereof is subject to one or more conditions as specified in the notice, Securities called for redemption become due and payable on the Redemption Date and at the Redemption Price. Upon surrender to the Paying Agent, such Securities called for redemption shall be paid at the Redemption Price, but interest installments whose maturity is on or prior to such Redemption Date will be payable on the relevant Interest Payment Dates to the Holders of record at the close of business on the relevant record dates specified pursuant to Section 2.01.

Section 3.06 Deposit of Redemption Price.

By 11:00 a.m., New York City time, on any Redemption Date, the Company or a Guarantor shall deposit with the Trustee or the Paying Agent (or, if the Company or such Guarantor is acting as the Paying Agent, segregate and hold in trust as provided in Section 2.06) an amount of money in same day funds sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on and any Additional Amounts with respect to, the Securities or portions thereof which are to be redeemed on that date, other than Securities or portions thereof called for redemption on that date which have been delivered by the Company or a Guarantor to the Trustee for cancellation.

If the Company or a Guarantor complies with the preceding paragraph, then, unless the Company or the Guarantors default in the payment of such Redemption Price, interest on the Securities to be redeemed will cease to accrue on and after the applicable Redemption Date, whether or not such Securities are presented for payment, and the Holders of such Securities shall have no further rights with respect to such Securities except for the right to receive the Redemption Price upon surrender of such Securities. If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal, premium, if any, any Additional Amounts, and, to the extent lawful, accrued interest thereon shall, until paid, bear interest from the Redemption Date at the rate specified pursuant to Section 2.01 or provided in the Securities or, in the case of Original Issue Discount Securities, such Securities' yield to maturity.

Section 3.07 Securities Redeemed in Part.

Upon surrender to the Paying Agent of a Security to be redeemed in part, the Company shall execute, each Guarantor with respect to such series shall execute the Notation of Guarantee relating to such Security, if any, and the Trustee shall authenticate and deliver to the Holder of such Security without service charge a new Security or Securities, of the same series and of any authorized denomination as requested by such Holder in aggregate principal amount equal to, and in exchange for, the unredeemed portion of the principal of the Security so surrendered that is not redeemed.

Section 3.08 Purchase of Securities.

Unless otherwise specified as contemplated by Section 2.01, the Company, any Guarantor or any Affiliate of the Company or any Guarantor may, subject to applicable law, at any time purchase or otherwise acquire Securities in the open market or by private agreement. Any such acquisition shall not operate as or be deemed for any purpose to be a redemption of the indebtedness represented by such Securities. Any Securities purchased or acquired by the Company or a Guarantor may be delivered to the Trustee and, upon such delivery, the indebtedness represented thereby shall be deemed to be satisfied. Section 2.13 shall apply to all Securities so delivered.

Section 3.09 Mandatory and Optional Sinking Funds.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a "mandatory sinking fund payment," and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an "optional sinking fund payment." Unless otherwise provided by the terms of Securities of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 3.10. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of such series and by this Article III.

Section 3.10 Satisfaction of Sinking Fund Payments with Securities.

The Company or a Guarantor may deliver outstanding Securities of a series (other than any previously called for redemption) and may apply as a credit Securities of a series that have been redeemed either at the election of the Company pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Securities of such series required to be made pursuant to the terms of such series of Securities; *provided* that such Securities have not been previously so credited. Such Securities shall be received and credited for such purpose

by the Trustee at the Redemption Price specified in such Securities for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

Section 3.11 Redemption of Securities for Sinking Fund.

Not less than 5 Business Days prior (unless a shorter period shall be satisfactory to the Trustee) to each sinking fund payment date for any series of Securities, the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash and the portion thereof, if any, which is to be satisfied by delivery of or by crediting Securities of that series pursuant to Section 3.10 and will also deliver or cause to be delivered to the Trustee any Securities to be so delivered. Failure of the Company to timely deliver or cause to be delivered such Officers' Certificate and Securities specified in this paragraph, if any, shall not constitute a default but shall constitute the election of the Company (i) that the mandatory sinking fund payment for such series due on the next succeeding sinking fund payment date shall be paid entirely in cash without the option to deliver or credit Securities of such series in respect thereof and (ii) that the Company will make no optional sinking fund payment with respect to such series as provided in this Section 3.11.

If the sinking fund payment or payments (mandatory or optional or both) to be made in cash on the next succeeding sinking fund payment date plus any unused balance of any preceding sinking fund payments made in cash shall exceed \$100,000 (or the Dollar equivalent thereof based on the applicable Exchange Rate on the date of original issue of the applicable Securities) or a lesser sum if the Company shall so request with respect to the Securities of any particular series, such cash shall be applied on the next succeeding sinking fund payment date to the redemption of Securities of such series at the sinking fund redemption price together with accrued interest to the date fixed for redemption. If such amount shall be \$100,000 (or the Dollar equivalent thereof as aforesaid) or less and the Company makes no such request then it shall be carried over until a sum in excess of \$100,000 (or the Dollar equivalent thereof as aforesaid) is available. Not less than 30 days before each such sinking fund payment date, the Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 3.03 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 3.04. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Section 3.05, Section 3.06 and Section 3.07.

Article IV Covenants

Section 4.01 Payment of Securities.

The Company shall pay the principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of each series on the dates and in the manner provided in the Securities of such series and in this Indenture. Principal, premium, interest and any Additional Amounts shall be considered paid on the date due if the Paying Agent (other than the Company, a Guarantor or a Subsidiary) holds by 11:00 a.m., New York City time, on that date money deposited by the Company or a Guarantor designated for and sufficient to pay all principal, premium, interest and any Additional Amounts then due.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium (if any), at a rate equal to the then applicable interest rate on the Securities to the extent lawful; and it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and any Additional Amount (without regard to any applicable grace period) at the same rate to the extent lawful.

Section 4.02 Maintenance of Office or Agency.

The Company will maintain in each Place of Payment for any series of Securities an office or agency (which may be an office of the Trustee, the Registrar or the Paying Agent) where Securities of that series may be presented for registration of transfer or exchange, where Securities of that series may be presented for payment and where notices

and demands to or upon the Company or a Guarantor in respect of the Securities of that series and this Indenture may be served. Unless otherwise designated by the Company by written notice to the Trustee and the Guarantors, such office or agency shall be the office of the Trustee in The City of New York, which on the date hereof is located at []. The Company will give prompt written notice to the Trustee and the Guarantors of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee and the Guarantors with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

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

Section 4.03 SEC Reports; Financial Statements.

(1) If the Company is subject to the requirements of Section 13 or 15(d) of the Exchange Act, the Company shall, so long as any of the Securities are outstanding, file with the Trustee, within 15 days after it files the same with the SEC, copies of the annual reports and the information, documents and other reports (or copies of such portions of any of the foregoing as the SEC may by rules and regulations prescribe) that the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act. If this Indenture is qualified under the TIA, but not otherwise, the Company shall also comply with the provisions of TIA § 314(a). Delivery of such reports, information and documents to the Trustee shall be for informational purposes only, and the Trustee's receipt thereof shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's and the Guarantors' compliance with any of their covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates or certificates delivered pursuant to Section 4.04)

(2) If the Company is not subject to the requirements of Section 13 or 15(d) of the Exchange Act, the Company shall furnish to all Holders of Rule 144A Securities and prospective purchasers of Rule 144A Securities designated by the Holders of Rule 144A Securities, promptly upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) promulgated under the Securities Act of 1933, as amended.

(3) The Company intends to file the reports, information and documents referred to in Section 4.03(1) hereof with the SEC in electronic form pursuant to Regulation S-T promulgated by the SEC using the SEC's Electronic Data Gathering, Analysis and Retrieval ("EDGAR") system. The Trustee is hereby authorized and directed to access the EDGAR system for purposes of retrieving the reports so filed. Compliance with the foregoing shall constitute delivery by the Company of such reports to the Trustee in compliance with the provisions of TIA § 314(a). The Trustee shall have no duty to search for or obtain any electronic or other filings that the Company makes with the SEC, regardless of whether such filings are periodic, supplemental or otherwise. Delivery of the reports, information and documents to the Trustee pursuant to this Section 4.03 shall be solely for the purposes of compliance with this Section 4.03 and with TIA § 314(a). The Trustee's receipt of such reports, information and documents shall not constitute notice to it of the content thereof or of any matter determinable from the content thereof, including the Company's and any Guarantor's compliance with any of their covenants hereunder, as to which the Trustee is entitled to rely upon Officers' Certificates.

Section 4.04 Compliance Certificate.

(1) The Company shall, so long as any of the Securities are outstanding, deliver to the Trustee, within 120 days after the end of each fiscal year of the Company a statement signed by an Officer of the Company, which need not constitute an Officers' Certificate, complying with TIA § 314(a)(4) and stating that in the course of performance by the signing Officer of his or her duties as such Officer of the Company, he or

she would normally obtain knowledge of the keeping, observing, performing and fulfilling by the Company and any Guarantor of its obligations under this Indenture, and further stating that to the best of his or her knowledge the Company and any Guarantor has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions hereof (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which such Officer may have knowledge and what action the Company and any Guarantor is taking or proposes to take with respect thereto).

(2) The Company shall, so long as Securities of any series are outstanding, deliver to the Trustee, as soon as practicable, but in no event more than 20 Business Days, after any Officer of the Company becomes aware of any Default or Event of Default under this Indenture, an Officers' Certificate specifying such Default or Event of Default and what action the Company and any Guarantor is taking or proposes to take with respect thereto.

Section 4.05 Existence.

Except as permitted by Article V, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence. This Section 4.05 shall not prohibit or restrict the Company from converting into a different form of legal entity.

Section 4.06 Waiver of Stay, Extension or Usury Laws.

The Company and each of the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury law, wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and (to the extent that it may lawfully do so) the Company and each of the Guarantors hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Article V Successors

Section 5.01 Limitations on Mergers and Consolidations.

Neither the Company nor any Guarantor shall consolidate with or merge into any Person, or sell, lease, convey, assign, transfer or otherwise dispose of, in any transaction or series of transactions, all or substantially all of its and its Subsidiaries' assets take as a whole to any Person (other than a consolidation or merger of the Company and one or more Guarantors or two or more Guarantors, or a sale, lease, conveyance, assignment, transfer or other disposition of all or substantially all of the assets of the Company to a Guarantor, a Guarantor to the Company or of a Guarantor to another Guarantor), unless:

(1) either (a) the Company or such Guarantor, as the case may be, shall be the continuing Person or (b) the Person (if other than the Company or such Guarantor) formed by such consolidation or into which the Company or such Guarantor is merged, or to which such sale, lease, conveyance, assignment, transfer or other disposition shall be made (collectively, the "**Successor**"), is organized and validly existing under the laws of the United States, any political subdivision thereof or any State thereof or the District of Columbia, and expressly assumes by supplemental indenture, in the case of the Company, the due and punctual payment of the principal of, premium (if any) and interest on and any Additional Amounts with respect to all the Securities and the performance of the Company's covenants and obligations under this Indenture and the Securities, or, in the case of such Guarantor, the performance of the Guarantee and such Guarantor's covenants and obligations under this Indenture and the Securities; and

(2) immediately after giving effect to such transaction or series of transactions, no Default or Event of Default shall have occurred and be continuing or would result therefrom.

Section 5.02 Successor Person Substituted.

Upon any consolidation or merger of the Company or a Guarantor, as the case may be, or any sale, lease, conveyance, assignment, transfer or other disposition of all or substantially all of the assets of the Company or such Guarantor in accordance with Section 5.01, the Successor formed by such consolidation or into or with which the Company or such Guarantor is merged or to which such sale, lease, conveyance, assignment, transfer or other disposition is made shall succeed to, and be substituted for, and may exercise every right and power of the Company or such Guarantor, as the case may be, under this Indenture and the Securities with the same effect as if such Successor had been named as the Company or such Guarantor, as the case may be, herein and the predecessor Company or Guarantor, in the case of a sale, lease, conveyance, assignment, transfer or other disposition, shall be released from all obligations and covenants under this Indenture, the Securities and, in the case of a Guarantor, its Guarantee.

Article VI
Defaults and Remedies

Section 6.01 Events of Default.

Unless either inapplicable to a particular series or specifically deleted or modified in or pursuant to the supplemental indenture or Board Resolution establishing such series of Securities or in the form of Security for such series, an “**Event of Default**,” wherever used herein with respect to Securities of any series, occurs if:

- (1) the Company defaults in the payment of interest on or any Additional Amounts with respect to any Security of that series when the same becomes due and payable and such default continues for a period of 30 days;
- (2) the Company defaults in the payment of the principal of or premium, if any, on any Securities of that series as and when the same shall become due and payable, whether at Stated Maturity, upon redemption, by declaration, upon required repurchase or otherwise;
- (3) the Company defaults in the deposit of any sinking fund payment with respect to any Securities of that series as and when the same shall become due and payable, and such default continues for a period of 30 days;
- (4) the Company fails to comply with any of its other agreements in this Indenture (other than an agreement, covenant or provision that has expressly been included in this Indenture solely for the benefit of one or more series of Securities other than that series) which shall not have been remedied within the specified period after written notice, as specified in the last paragraph of this Section 6.01;
- (5) the Company, or if that series of Securities is entitled to the benefits of a Guarantee by any Guarantor that is a Significant Subsidiary, any such Guarantor, pursuant to or within the meaning of any Bankruptcy Law:
 - (a) commences a voluntary case,
 - (b) consents to the entry of an order for relief against it in an involuntary case,
 - (c) consents to the appointment of a Bankruptcy Custodian of it or for all or substantially all of its property, or
 - (d) makes a general assignment for the benefit of its creditors;

(6) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that remains unstayed and in effect for 90 days and that:

(a) is for relief against the Company or any Guarantor with respect to such series that is a Significant Subsidiary as debtor in an involuntary case,

(b) appoints a Bankruptcy Custodian of the Company or any Guarantor with respect to such series that is a Significant Subsidiary, or

(c) orders the liquidation of the Company or any Guarantor with respect to such series that is a Significant Subsidiary;

(7) if that series of Securities is entitled to the benefits of a Guarantee by the Guarantors, the Guarantee of any of such Guarantors ceases to be in full force and effect with respect to Securities of that series (except as otherwise provided in this Indenture) or is declared null and void in a judicial proceeding, or any such Guarantor denies or disaffirms its obligations under this Indenture or such Guarantee; or

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

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

The Trustee shall not be deemed to know or have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default or Event of Default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture.

When a Default or Event of Default is cured, it ceases.

Notwithstanding the foregoing provisions of this Section 6.01, if the principal of, premium (if any) or interest on or Additional Amounts with respect to any Security is payable in a currency or currencies (including a composite currency) other than Dollars and such currency or currencies are not available to the Company or a Guarantor for making payment thereof due to the imposition of exchange controls or other circumstances beyond the control of the Company or such Guarantor, the Company will be entitled to satisfy its obligations to Holders of the Securities by making such payment in Dollars in an amount equal to the Dollar equivalent of the amount payable in such other currency, as determined by the Company or the Guarantor, as the case may be, by reference to the Exchange Rate on the date of such payment, or, if such rate is not then available, on the basis of the most recently available Exchange Rate. Notwithstanding the foregoing provisions of this Section 6.01, any payment made under such circumstances in Dollars where the required payment is in a currency other than Dollars will not constitute an Event of Default under this Indenture.

A Default under clause (4) or (8) of this Section 6.01 is not an Event of Default until the Trustee notifies the Company and the Guarantors, or the Holders of at least 25% in aggregate principal amount of the then outstanding Securities of the series affected by such Default (or, in the case of a Default under clause (4) of this Section 6.01, if outstanding Securities of other series are affected by such Default, then at least 25% in aggregate principal amount of the then outstanding Securities so affected) notify the Company, the Guarantors and the Trustee, of the Default, and the Company or the applicable Guarantor, as the case may be, fails to cure the Default within 90 days after receipt of the notice. The notice must specify the Default, demand that it be remedied and state that the notice is a “Notice of Default.”

Section 6.02 Acceleration.

If an Event of Default with respect to any Securities of any series at the time outstanding (other than an Event of Default specified in clause (5) or (6) of Section 6.01) occurs and is continuing, the Trustee by notice to the Company

and the Guarantors, or the Holders of at least 25% in aggregate principal amount of the then outstanding Securities of the series affected by such Event of Default (or, in the case of an Event of Default described in clause (4) of Section 6.01, if outstanding Securities of other series are affected by such Event of Default, then at least 25% in aggregate principal amount of the then outstanding Securities so affected voting as one class) by notice to the Company, the Guarantors and the Trustee, may declare the principal of (or, if any such Securities are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of that series) and all accrued and unpaid interest on all then outstanding Securities of such series or of all series, as the case may be, to be due and payable. Upon any such declaration, the amounts due and payable on the Securities shall be due and payable immediately. If an Event of Default specified in clause (5) or (6) of Section 6.01 hereof occurs, such amounts shall ipso facto become and be immediately due and payable without any declaration, notice or other act on the part of the Trustee or any Holder. The Holders of a majority in aggregate principal amount of the then outstanding Securities of the series affected by such Event of Default or all series so affected, as the case may be, by written notice to the Trustee may rescind an acceleration and its consequences (other than nonpayment of principal of or premium or interest on or any Additional Amounts with respect to the Securities) if the rescission would not conflict with any judgment or decree and if all existing Events of Default with respect to Securities of that series (or of all series, as the case may be) have been cured or waived, except nonpayment of principal, premium, interest or any Additional Amounts that has become due solely because of the acceleration.

Section 6.03 Other Remedies.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of, or premium, if any, or interest on the Securities or to enforce the rights vested in it by this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Securities or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04 Waiver of Defaults.

Subject to Section 6.07 and Section 9.02, the Holders of a majority in aggregate principal amount of the then outstanding Securities of any series or of all series affected thereby (acting as one class) by notice to the Trustee may waive an existing or past Default or Event of Default with respect to such series or all series so affected, as the case may be, and its consequences (including waivers obtained in connection with a tender offer or exchange offer for Securities of such series or all series so affected or a solicitation of consents in respect of Securities of such series or all series so affected, *provided* that in each case such offer or solicitation is made to all Holders of then outstanding Securities of such series or all series so affected (but the terms of such offer or solicitation may vary from series to series)), except (1) a continuing Default or Event of Default in the payment of the principal of, or premium, if any, or interest on or any Additional Amounts with respect to any Security or (2) a continued Default in respect of a provision that under Section 9.02 cannot be amended or supplemented without the consent of each Holder affected. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05 Control by Majority.

With respect to Securities of any series, the Holders of a majority in aggregate principal amount of the then outstanding Securities of such series may direct in writing the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it relating to or arising as a result of an Event of Default described in clause (1), (2), (3) or (7) of Section 6.01, and with respect to all Securities, the Holders of a majority in aggregate principal amount of all the then outstanding Securities affected may direct in writing the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it not relating to or arising under such an Event of Default. However, the Trustee may refuse

to follow any direction that conflicts with applicable law or this Indenture, that the Trustee determines may be unduly prejudicial to the rights of other Holders, or that may involve the Trustee in personal liability; *provided, however*, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any action hereunder, the Trustee shall be entitled to indemnification satisfactory to it in its sole discretion from Holders directing the Trustee against all losses and expenses caused by taking or not taking such action.

Section 6.06 Limitations on Suits.

Subject to Section 6.07 hereof, a Holder of a Security of any series may pursue a remedy with respect to this Indenture or the Securities of such series or the related Guarantees, if any, only if:

- (1) the Holder has previously given to the Trustee written notice of a continuing Event of Default with respect to such series;
- (2) the Holders of at least 25% in aggregate principal amount of the then outstanding Securities of such series make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders offer to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of indemnity; and
- (5) during such 60-day period, the Holders of a majority in aggregate principal amount of the Securities of such series do not give the Trustee a direction inconsistent with the request.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any such use by a Holder prejudices the rights of any other Holder or obtains preference or priority over such other Holder).

Section 6.07 Rights of Holders to Receive Payment.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Security to receive payment of principal of and premium, if any, and interest on and any Additional Amounts with respect to the Security, on or after the respective due dates expressed in the Security, or to bring suit for the enforcement of any such payment on or after such respective dates, is absolute and unconditional and shall not be impaired or affected without the consent of the Holder.

Section 6.08 Collection Suit by Trustee.

If an Event of Default specified in clause (1) or (2) of Section 6.01 hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company or a Guarantor for the amount of principal, premium (if any), interest and any Additional Amounts remaining unpaid on the Securities of the series affected by the Event of Default, and interest on overdue principal and premium, if any, and, to the extent lawful, interest on overdue interest, and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09 Trustee May File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents and to take such actions, including participating as a member, voting or otherwise, of any committee of creditors, as may be necessary or advisable to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and

advances of the Trustee, its agents and counsel) and the Holders allowed in any judicial proceedings relative to the Company or a Guarantor or their respective creditors or properties and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any Bankruptcy Custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties which the Holders of the Securities may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 Priorities.

If the Trustee collects any money pursuant to this Article VI, it shall pay out the money in the following order:

First: to the Trustee for amounts due under Section 7.07;

Second: to Holders for amounts due and unpaid on the Securities in respect of which or for the benefit of which such money has been collected, for principal, premium (if any), interest and any Additional Amounts ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal, premium (if any), interest and any Additional Amounts, respectively; and

Third: to the Company.

The Trustee, upon prior written notice to the Company, may fix record dates and payment dates for any payment to Holders pursuant to this Article VI.

To the fullest extent allowed under applicable law, if for the purpose of obtaining a judgment against the Company or a Guarantor in any court it is necessary to convert the sum due in respect of the principal of, premium (if any) or interest on or Additional Amounts with respect to the Securities of any series (the "**Required Currency**") into a currency in which a judgment will be rendered (the "**Judgment Currency**"), the rate of exchange used for purposes of rendering the judgment shall be the rate at which in accordance with normal banking procedures the Trustee could purchase in The City of New York the Required Currency with the Judgment Currency on the Business Day in The City of New York next preceding that on which final judgment is given. None of the Company, any Guarantor or the Trustee shall be liable for any shortfall nor shall it benefit from any windfall in payments to Holders of Securities under this Section 6.10 caused by a change in exchange rates between the time the amount of a judgment against it is calculated as above and the time the Trustee converts the Judgment Currency into the Required Currency to make payments under this Section 6.10 to Holders of Securities, but payment of such judgment shall discharge all amounts owed by the Company and the Guarantors on the claim or claims underlying such judgment.

Section 6.11 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07, or a suit by a Holder or Holders of more than 10% in aggregate principal amount of the then outstanding Securities of any series.

Article VII
Trustee

Section 7.01 Duties of Trustee.

(1) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in such exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(2) Except during the continuance of an Event of Default with respect to the Securities of any series:

(a) the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(b) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine such certificates and opinions to determine whether, on their face, they appear to conform to the requirements of this Indenture.

(3) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(a) this paragraph does not limit the effect of Section 7.01(2);

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

(c) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05.

(4) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to the provisions of this Section 7.01.

(5) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity satisfactory to it against any loss, liability or expense.

(6) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company and the Guarantors. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law. All money received by the Trustee shall, until applied as herein provided, be held in trust for the payment of the principal of, premium (if any) and interest on and Additional Amounts with respect to the Securities.

Section 7.02 Rights of Trustee.

(1) The Trustee may conclusively rely on any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(2) Before the Trustee acts or refrains from acting, it may require instruction, an Officers' Certificate or an Opinion of Counsel or both to be provided. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such instruction, Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(3) The Trustee may act through agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(4) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers conferred upon it by this Indenture.

(5) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company or any Guarantor shall be sufficient if signed by an Officer of the Company or such Guarantor, as the case may be.

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

(7) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(8) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture.

(9) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

Section 7.03 May Hold Securities.

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company, any Guarantor or any of their respective Affiliates with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights and duties. However, the Trustee is subject to Sections 7.10 and 7.11.

Section 7.04 Trustee's Disclaimer.

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Securities, it shall not be accountable for the Company's use of the proceeds from the Securities or any money paid to the Company or any Guarantor or upon the Company's or such Guarantor's direction under any provision hereof, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee and it shall not be responsible for any statement or recital herein or any statement in the Securities other than its certificate of authentication.

Section 7.05 Notice of Defaults.

If a Default or Event of Default with respect to the Securities of any series occurs and is continuing and it is known to the Trustee, the Trustee shall mail to Holders of Securities of such series a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium (if any) and interest on and Additional Amounts or any sinking fund installment with respect to the Securities of such series, the Trustee may withhold the notice if and so long as the board of directors, the executive committee or a trust committee of directors or Responsible Officers of the Trustee in good faith determines that withholding the notice is in the interests of Holders of Securities of such series.

Section 7.06 Reports by Trustee to Holders.

Within 60 days after each _____ of each year after the execution of this Indenture, the Trustee shall mail to Holders of a series, the Guarantors and the Company a brief report dated as of such reporting date that complies with TIA § 313(a); *provided, however*, that if no event described in TIA § 313(a) has occurred within the twelve months preceding the reporting date with respect to a series, no report need be transmitted to Holders of such series. The Trustee also shall comply with TIA § 313(b). The Trustee shall also transmit by mail all reports if and as required by TIA §§ 313(c) and 313(d).

Section 7.07 Compensation and Indemnity.

The Company agrees to pay to the Trustee for its acceptance of this Indenture and services hereunder such compensation as the Company and the Trustee shall from time to time agree in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company agrees to reimburse the Trustee upon request for all reasonable disbursements, advances and expenses incurred by it. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company hereby indemnifies the Trustee and any predecessor Trustee against any and all loss, liability, damage, claim or expense, including taxes (other than taxes based upon, measured by or determined by the income of the Trustee), incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, except as set forth in the next following paragraph. The Trustee shall notify the Company and the Guarantors promptly of any claim for which it may seek indemnity. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent.

The Company shall not be obligated to reimburse any expense or indemnify against any loss or liability incurred by the Trustee through the Trustee's negligence, willful misconduct or bad faith.

To secure the payment obligations of the Company in this Section 7.07, the Trustee shall have a lien prior to the Securities on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium (if any) and interest on and any Additional Amounts with respect to Securities of any series. Such lien and the Company's obligations under this Section 7.07 shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(5) or (6) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any Bankruptcy Law.

Section 7.08 Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

The Trustee may resign in writing and be discharged at any time with respect to the Securities of one or more series by so notifying the Company and the Guarantors. The Holders of a majority in aggregate principal amount of

the then outstanding Securities of any series may remove the Trustee with respect to the Securities of such series by so notifying the Trustee, the Company and the Guarantors in writing. The Company may remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.10;
- (2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (3) a Bankruptcy Custodian or public officer takes charge of the Trustee or its property; or
- (4) the Trustee otherwise becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, with respect to the Securities of one or more series, the Company shall promptly appoint a successor Trustee or Trustees with respect to the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of such series and that at any time there shall be only one Trustee with respect to the Securities of any particular series). Within one year after the successor Trustee with respect to the Securities of any series takes office, the Holders of a majority in aggregate principal amount of the Securities of such series then outstanding may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee with respect to the Securities of any series does not take office within 60 days after the retiring or removed Trustee resigns or is removed, the retiring or removed Trustee, the Company, any Guarantor or the Holders of at least 10% in aggregate principal amount of the then outstanding Securities of such series may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

If the Trustee with respect to the Securities of a series fails to comply with Section 7.10, any Holder of Securities of such series may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee with respect to the Securities of such series.

In case of the appointment of a successor Trustee with respect to all Securities, each such successor Trustee shall deliver a written acceptance of its appointment to the retiring or removed Trustee, to the Company and to the Guarantors. Thereupon the resignation or removal of the retiring or removed Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the retiring or removed Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring or removed Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.07.

In case of the appointment of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the Guarantors, the retiring or removed Trustee and each successor Trustee with respect to the Securities of one or more (but not all) series shall execute and deliver an indenture supplemental hereto in which each successor Trustee shall accept such appointment and that (1) shall confer to each successor Trustee all the rights, powers and duties of the retiring or removed Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (2) if the retiring or removed Trustee is not retiring or removed with respect to all Securities, shall confirm that all the rights, powers and duties of the retiring or removed Trustee with respect to the Securities of that or those series as to which the retiring or removed Trustee is not retiring or removed shall continue to be vested in the retiring or removed Trustee and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee. Nothing herein or in such supplemental indenture shall constitute such Trustees as co-trustees of the same trust, and each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee. Upon the execution and delivery of such supplemental indenture, the resignation or removal of the retiring or removed Trustee shall become effective to the extent provided therein and each such successor Trustee shall have all the rights, powers and duties of the retiring or removed Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates. On request of the Company or any successor Trustee, such retiring or removed Trustee shall transfer to such successor Trustee all property held by

such retiring or removed Trustee as Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates.

Notwithstanding replacement of the Trustee or Trustees pursuant to this Section 7.08, the obligations of the Company under Section 7.07 shall continue for the benefit of the retiring Trustee or Trustees.

Section 7.09 Successor Trustee by Merger, etc.

Subject to Section 7.10, if the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee; *provided, however*, that in the case of a transfer of all or substantially all of its corporate trust business to another corporation, the transferee corporation expressly assumes all of the Trustee's liabilities hereunder.

In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated; and in case at that time any of the Securities shall not have been authenticated, any successor to the Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Securities or in this Indenture *provided* that the certificate of the Trustee shall have.

Section 7.10 Eligibility; Disqualification.

There shall at all times be a Trustee hereunder which shall be a corporation or banking or trust company or association organized and doing business under the laws of the United States, any State thereof or the District of Columbia and authorized under such laws to exercise corporate trust power, shall be subject to supervision or examination by federal or state (or the District of Columbia) authority and shall have, or be a subsidiary of a bank or bank holding company having, a combined capital and surplus of at least \$50 million as set forth in its most recent published annual report of condition.

The Indenture shall always have a Trustee who satisfies the requirements of TIA §§ 310(a)(1), 310(a)(2) and 310(a)(5). The Trustee is subject to and shall comply with the provisions of TIA § 310(b) during the period of time required by this Indenture. Nothing in this Indenture shall prevent the Trustee from filing with the SEC the application referred to in the penultimate paragraph of TIA § 310(b).

Section 7.11 Preferential Collection of Claims Against the Company or a Guarantor.

The Trustee is subject to and shall comply with the provisions of TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein.

Article VIII
Discharge of Indenture

Section 8.01 Termination of the Company's and the Guarantors' Obligations.

(1) This Indenture shall cease to be of further effect with respect to the Securities of a series (except that the Company's obligations under Section 7.07, the Trustee's and Paying Agent's obligations under Section 8.03 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive), and the Trustee, on demand of the Company, shall execute proper instruments acknowledging the satisfaction and discharge of this Indenture with respect to the Securities of such series, when:

- (a) either:

(i) all outstanding Securities of such series theretofore authenticated and issued (other than destroyed, lost or stolen Securities that have been replaced or paid) have been delivered to the Trustee for cancellation; or

(ii) all outstanding Securities of such series not theretofore delivered to the Trustee for cancellation:

(A) have become due and payable, or

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

(C) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company, and, in the case of clause (A), (B) or (C) above, the Company or a Guarantor has irrevocably deposited or caused to be deposited with the Trustee as funds (immediately available to the Holders in the case of clause (A)) in trust for such purpose (x) cash in an amount, or (y) Government Obligations with respect to such series, maturing as to principal and interest at such times and in such amounts as will ensure the availability of cash in an amount or (z) a combination thereof, which will be sufficient, in the opinion (in the case of clauses (y) and (z)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge the entire indebtedness on the Securities of such series for principal and interest to the date of such deposit (in the case of Securities which have become due and payable) or for principal, premium, if any, and interest to the Stated Maturity or Redemption Date, as the case may be; or

(iii) the Company and the Guarantors have properly fulfilled such other means of satisfaction and discharge as is specified, as contemplated by Section 2.01, to be applicable to the Securities of such series;

(b) the Company or a Guarantor has paid or caused to be paid all other sums payable by them hereunder with respect to the Securities of such series; and

(c) the Company has delivered to the Trustee an Officers' Certificate stating that all conditions precedent to satisfaction and discharge of this Indenture with respect to the Securities of such series have been complied with, together with an Opinion of Counsel to the same effect.

(2) Unless this Section 8.01(2) is specified as not being applicable to Securities of a series as contemplated by Section 2.01, the Company may, at its option, terminate certain of their and the Guarantors' respective obligations under this Indenture ("**covenant defeasance**") with respect to the Securities of a series if:

(a) the Company or a Guarantor has irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for and dedicated solely to the benefit of the Holders of Securities of such series, (i) money in the currency in which payment of the Securities of such series is to be made in an amount, or (ii) Government Obligations with respect to such series, maturing as to principal and interest at such times and in such amounts as will ensure the availability of money in the currency in which payment of the Securities of such series is to be made in an amount or (iii) a combination thereof, that is sufficient, in the opinion (in the case of clauses (ii) and (iii)) of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay the principal of and premium (if any) and interest on all Securities of such series on each date that such principal, premium (if any) or interest is due and payable and (at the Stated Maturity thereof or upon redemption as provided in Section 8.01(5)) to pay all other sums payable

by it hereunder; provided that the Trustee shall have been irrevocably instructed to apply such money and/or the proceeds of such Government Obligations to the payment of said principal, premium (if any) and interest with respect to the Securities of such series as the same shall become due;

(b) the Company has delivered to the Trustee an Officers' Certificate stating that all conditions precedent to satisfaction and discharge of this Indenture with respect to the Securities of such series have been complied with, and an Opinion of Counsel to the same effect;

(c) no Default or Event of Default with respect to the Securities of such series shall have occurred and be continuing on the date of such deposit;

(d) the Company shall have delivered to the Trustee an Opinion of Counsel from a nationally recognized counsel acceptable to the Trustee or a private letter ruling issued by the United States Internal Revenue Service to the effect that the Holders will not recognize income, gain or loss for United States Federal income tax purposes as a result of the Company's exercise of its option under this Section 8.01(2) and will be subject to United States Federal income tax on the same amount and in the same manner and at the same times as would have been the case if such option had not been exercised;

(e) the Company and the Guarantors have complied with any additional conditions specified pursuant to Section 2.01 to be applicable to the discharge of Securities of such series pursuant to this Section 8.01; and

(f) such deposit and discharge shall not cause the Trustee to have a conflicting interest as defined in TIA § 310(b).

In such event, (1) this Indenture shall cease to be of further effect (except as set forth in this paragraph), and the Trustee, on demand of the Company, shall execute proper instruments acknowledging satisfaction and discharge under this Indenture and (2) the Guarantee with respect to the Securities, if any, will automatically terminate and be automatically released and discharged, and any Security that may have been granted in respect of such series shall be automatically released. However, the Company's obligations in Sections 2.05, 2.06, 2.07, 2.08, 2.09, 4.01, 4.02, 7.07, 7.08, 8.04 and 10.01, the Trustee's and Paying Agent's obligations in Section 8.03 and the rights, powers, protections and privileges accorded the Trustee under Article VII shall survive until all Securities of such series are no longer outstanding. Thereafter, only the Company's obligations in Section 7.07 and the Trustee's and Paying Agent's obligations in Section 8.03 shall survive with respect to Securities of such series.

After such irrevocable deposit made pursuant to this Section 8.01(2) and satisfaction of the other conditions set forth herein, the Trustee upon request shall acknowledge in writing the discharge of the Company's and the Guarantors' obligations under this Indenture with respect to the Securities of such series except for those surviving obligations specified above.

In order to have money available on a payment date to pay principal of or premium (if any) or interest on the Securities, the Government Obligations shall be payable as to principal or interest on or before such payment date in such amounts as will provide the necessary money. Government Obligations shall not be callable at the Company's option.

(3) If the Company and the Guarantors have previously complied or are concurrently complying with Section 8.01(2) (other than any additional conditions specified pursuant to Section 2.01 that are expressly applicable only to covenant defeasance) with respect to Securities of a series, then, unless this Section 8.01(3) is specified as not being applicable to Securities of such series as contemplated by Section 2.01, the Company may elect that its and the Guarantors' respective obligations to make payments with respect to Securities of such series be discharged ("**legal defeasance**"), if:

(a) no Default or Event of Default under clauses (5) and (6) of Section 6.01 hereof shall have occurred and be continuing on the date of compliance under this Section 8.01(3);

(b) unless otherwise specified with respect to Securities of such series as contemplated by Section 2.01, the Company has delivered to the Trustee an Opinion of Counsel from a nationally recognized counsel acceptable to the Trustee to the effect referred to in Section 8.01(2)(d) with respect to such legal defeasance, which opinion is based on (i) a private letter ruling issued by the United States Internal Revenue Service addressed to the Company, (ii) a published ruling of the United States Internal Revenue Service pertaining to a comparable form of transaction or (iii) a change in the applicable federal income tax law (including regulations) after the date of this Indenture;

(c) the Company and the Guarantors have complied with any other conditions specified pursuant to Section 2.01 to be applicable to the legal defeasance of Securities of such series pursuant to this Section 8.01(3); and

(d) the Company has delivered to the Trustee a Company Order requesting such legal defeasance of the Securities of such series and an Officers' Certificate stating that all conditions precedent with respect to such legal defeasance of the Securities of such series have been complied with, together with an Opinion of Counsel to the same effect.

In such event, the Company and the Guarantors will be discharged from their respective obligations under this Indenture and the Securities of such series to pay principal of, premium (if any) and interest on, and any Additional Amounts with respect to, Securities of such series, the Company's and the Guarantors' respective obligations under Sections 4.01, 4.02 and 10.01 shall terminate with respect to such Securities, and the entire indebtedness of the Company evidenced by such Securities and of the Guarantors evidenced by the related Guarantees, if any, shall be deemed paid and discharged.

(4) If and to the extent additional or alternative means of satisfaction, discharge or defeasance of Securities of a series are specified to be applicable to such series as contemplated by Section 2.01, the Company and each of the Guarantors may terminate any or all of its obligations under this Indenture with respect to Securities of a series and any or all of its obligations under the Securities of such series if it fulfills such other means of satisfaction and discharge as may be so specified, as contemplated by Section 2.01, to be applicable to the Securities of such series.

(5) If Securities of any series subject to subsection (1), (2), (3) or (4) of this Section 8.01 are to be redeemed prior to their Stated Maturity, whether pursuant to any optional redemption provisions or in accordance with any mandatory or optional sinking fund provisions, the terms of the applicable trust arrangement shall provide for such redemption, and the Company shall make such arrangements as are reasonably satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense of, the Company.

Section 8.02 Application of Trust Money.

The Trustee or a trustee satisfactory to the Trustee and the Company shall hold in trust money or Government Obligations deposited with it pursuant to Section 8.01 hereof. It shall apply the deposited money and the money from Government Obligations through the Paying Agent and in accordance with this Indenture to the payment of principal of, premium (if any) and interest on and any Additional Amounts with respect to the Securities of the series with respect to which the deposit was made.

Section 8.03 Repayment to Company or Guarantor.

The Trustee and the Paying Agent shall promptly pay to the Company or any Guarantor any excess money or Government Obligations (or proceeds therefrom) held by them at any time upon the written request of the Company.

Subject to the requirements of any applicable abandoned property laws, the Trustee and the Paying Agent shall pay to the Company upon written request any money held by them for the payment of principal, premium (if any), interest or any Additional Amounts that remain unclaimed for two years after the date upon which such payment shall have become due. After payment to the Company, Holders entitled to the money must look to the Company for payment as general creditors unless an applicable abandoned property law designates another Person, and all liability of the Trustee and the Paying Agent with respect to such money shall cease.

Section 8.04 Reinstatement.

If the Trustee or the Paying Agent is unable to apply any money or Government Obligations deposited with respect to Securities of any series in accordance with Section 8.01 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the obligations of the Company and the Guarantors under this Indenture with respect to the Securities of such series and under the Securities of such series shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.01 until such time as the Trustee or the Paying Agent is permitted to apply all such money or Government Obligations in accordance with Section 8.01; *provided, however*, that if the Company or any Guarantor has made any payment of principal of, premium (if any) or interest on or any Additional Amounts with respect to any Securities because of the reinstatement of its obligations, the Company or such Guarantor, as the case may be, shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money or Government Obligations held by the Trustee or the Paying Agent.

Section 8.05 Miscellaneous Provisions.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the Government Obligations deposited pursuant to Section 8.01 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of outstanding Securities.

Article IX
Supplemental Indentures and Amendments

Section 9.01 Without Consent of Holders.

The Company, the Guarantors and the Trustee may amend or supplement this Indenture or the Securities or waive any provision hereof or thereof without the consent of any Holder:

- (1) to cure any ambiguity, omission, defect or inconsistency;
- (2) to comply with Section 5.01;
- (3) to provide for uncertificated Securities in addition to or in place of certificated Securities, or to provide for the issuance of bearer Securities (with or without coupons);
- (4) to provide any security for, or to add any guarantees of or additional obligors on, any series of Securities or the related Guarantees, if any;
- (5) to comply with any requirement in order to effect or maintain the qualification of this Indenture under the TIA;
- (6) to add to the covenants of the Company or any Guarantor for the benefit of the Holders of all or any series of Securities (and if such covenants are to be for the benefit of less than all series of Securities, stating that such covenants are expressly being included solely for the benefit of such series), or to surrender any right or power herein conferred upon the Company or any Guarantor;

(7) to add any additional Events of Default with respect to all or any series of the Securities (and, if any such Event of Default is applicable to less than all series of Securities, specifying the series to which such Event of Default is applicable);

(8) to change or eliminate any of the provisions of this Indenture; provided that any such change or elimination shall become effective only when there is no outstanding Security of any series created prior to the execution of such amendment or supplemental indenture that is adversely affected in any material respect by such change in or elimination of such provision; provided, further, that any change made solely to conform the provisions of this Indenture to the description of any Security in a prospectus supplement pursuant to which such Securities were offered and sold will not be deemed to adversely affect any Security of that series in any material respect;

(9) to establish the form or terms of Securities of any series as permitted by Section 2.01;

(10) to supplement any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the defeasance and discharge of any series of Securities pursuant to Section 8.01; provided, however, that any such action shall not adversely affect the interest of the Holders of Securities of such series or any other series of Securities in any material respect; or

(11) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 7.08.

Upon the request of the Company, accompanied by a Board Resolution, and upon receipt by the Trustee of the documents described in Section 9.06, the Trustee shall, subject to Section 9.06, join with the Company and the Guarantors in the execution of any supplemental indenture authorized or permitted by the terms of this Indenture and make any further appropriate agreements and stipulations that may be therein contained.

Notwithstanding anything to the contrary in this Section 9.01, it shall not be necessary for any Guarantor to join with the Company and the Trustee in the execution of any supplemental indenture authorized or permitted by the terms of this Indenture unless such supplemental indenture applies to a series of Securities entitled to the benefit of a Guarantee by such Guarantor.

Section 9.02 With Consent of Holders.

Except as provided below in this Section 9.02, the Company, the Guarantors and the Trustee may amend or supplement this Indenture with the written consent (including consents obtained in connection with a tender offer or exchange offer for Securities of any one or more series or all series or a solicitation of consents in respect of Securities of any one or more series or all series of the Holders of at least a majority in aggregate principal amount of the then outstanding Securities of each series affected by such amendment or supplement (acting as one class)).

Upon the request of the Company, accompanied by a Board Resolution, and upon the filing with the Trustee of evidence of the consent of the Holders as aforesaid, and upon receipt by the Trustee of the documents described in Section 9.06, the Trustee shall, subject to Section 9.06, join with the Company and the Guarantors in the execution of such amendment or supplemental indenture.

It shall not be necessary for the consent of the Holders under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

The Holders of a majority in aggregate principal amount of the then outstanding Securities of one or more series or of all series (acting as one class) may waive compliance in a particular instance by the Company or any Guarantor with any provision of this Indenture with respect to Securities of such series (including waivers obtained in

connection with a tender offer or exchange offer for Securities of such series or a solicitation of consents in respect of Securities of such series, *provided* that in each case such offer or solicitation is made to all Holders of then outstanding Securities of such series (but the terms of such offer or solicitation may vary from series to series)).

However, without the consent of each Holder affected, an amendment, supplement or waiver under this Section 9.02 may not:

- (1) reduce the percentage in payment amount of Securities whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the rate of or change the time for payment of interest, including default interest, on any Security;
- (3) reduce the principal of, any premium on or any mandatory sinking fund payment with respect to, or change the Stated Maturity of, any Security or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 6.02;
- (4) waive a redemption premium with respect to any Security or change the time at which any Security may or shall be redeemed;
- (5) change any obligation of the Company or any Guarantor to pay Additional Amounts with respect to any Security;
- (6) impair the right to institute suit for the enforcement of any payment of principal of, premium (if any) or interest on or any Additional Amounts with respect to any Security pursuant to Sections 6.07 and 6.08, except as limited by Section 6.06;
- (7) make any change in the percentage of principal amount of Securities necessary to waive compliance with certain provisions of this Indenture pursuant to Section 6.04 or 6.07 or make any change in this sentence of Section 9.02;
- (8) waive a continuing Default or Event of Default in the payment of principal of, premium (if any) or interest on or Additional Amounts with respect to the Securities (except rescission of acceleration as permitted in this Indenture); or
- (9) except as provided in Article VIII or Section 10.04, release any Guarantor or modify the related Guarantee in any manner materially adverse to the Holders.

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

The right of any Holder to participate in any consent required or sought pursuant to any provision of this Indenture (and the obligation of the Company or any Guarantor to obtain any such consent otherwise required from such Holder) may be subject to the requirement that such Holder shall have been the Holder of record of any Securities with respect to which such consent is required or sought as of a date identified by the Company or such Guarantor in a notice furnished to Holders in accordance with the terms of this Indenture.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company shall mail to the Holders of each Security affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

Notwithstanding anything to the contrary in this Section 9.02, it shall not be necessary for any Guarantor to join with the Company and the Trustee in the execution of any supplemental indenture authorized or permitted by the terms of this Indenture unless such supplemental indenture applies to a series of Securities entitled to the benefit of a Guarantee by such Guarantor.

Section 9.03 Compliance with the Trust Indenture Act.

Every amendment or supplement to this Indenture or the Securities shall comply in form and substance with the TIA as then in effect.

Section 9.04 Revocation and Effect of Consents.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder or subsequent Holder may revoke the consent as to his or her Security or portion of a Security if the Trustee receives written notice of revocation before a date and time therefor identified by the Company or any Guarantor in a notice furnished to such Holder in accordance with the terms of this Indenture or, if no such date and time shall be identified, the date the amendment, supplement or waiver becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

The Company or any Guarantor may, but shall not be obligated to, fix a record date (which need not comply with TIA § 316(c)) for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver or to take any other action under this Indenture. If a record date is fixed, then notwithstanding the provisions of the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to such amendment, supplement or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No consent shall be valid or effective for more than 90 days after such record date unless consents from Holders of the principal amount of Securities required hereunder for such amendment or waiver to be effective shall have also been given and not revoked within such 90-day period.

After an amendment, supplement or waiver becomes effective, it shall bind every Holder, unless it is of the type described in any of clauses (1) through (8) of Section 9.02 hereof. In such case, the amendment, supplement or waiver shall bind each Holder who has consented to it and every subsequent Holder of a Security that evidences all or a portion of the same debt as the consenting Holder's Security.

Section 9.05 Notation on or Exchange of Securities.

If an amendment or supplement changes the terms of an outstanding Security, the Company may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security at the request of the Company regarding the changed terms and return it to the Holder. Alternatively, if the Company so determines, the Company in exchange for the Security shall issue, each Guarantor with respect to such series shall execute the Notation of Guarantee relating to such Security, if any, and the Trustee shall authenticate a new Security that reflects the changed terms. Failure to make the appropriate notation or to issue a new Security shall not affect the validity of such amendment or supplement.

Securities of any series authenticated and delivered after the execution of any amendment or supplement may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such amendment or supplement.

Section 9.06 Trustee to Sign Amendments, etc.

The Trustee shall sign any amendment or supplement authorized pursuant to this Article if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee

may, but need not, sign it. In signing or refusing to sign such amendment or supplement, the Trustee shall be entitled to receive, and, subject to Section 7.01 hereof, shall be fully protected in relying upon, in good faith, an Officers' Certificate and an Opinion of Counsel provided at the expense of the Company or a Guarantor as conclusive evidence that such amendment or supplement is authorized or permitted by this Indenture.

Article X Guarantee

Section 10.01 Guarantee.

(1) Notwithstanding any provision of this Article X to the contrary, the provisions of this Article X relating to the Guarantors shall be applicable only to, and inure solely to the benefit of, the Securities of any series designated, pursuant to Section 2.01, as entitled to the benefits of the related Guarantee of each of the Guarantors.

(2) For value received, each of the Guarantors hereby fully, unconditionally and absolutely guarantees (each, a "Guarantee") to the Holders and to the Trustee the due and punctual payment of the principal of, and premium, if any, and interest on the Securities and all other amounts due and payable under this Indenture and the Securities by the Company, when and as such principal, premium, if any, and interest shall become due and payable, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise, according to the terms of the Securities and this Indenture, subject to the limitations set forth in Section 10.03.

(3) Failing payment when due of any amount guaranteed pursuant to the related Guarantee, for whatever reason, each of the Guarantors will be jointly and severally obligated to pay the same immediately. Each of the Guarantees hereunder is intended to be a general, unsecured, senior obligation of the related Guarantor and will rank pari passu in right of payment with all general unsecured Debt of such Guarantor that is not, by its terms, expressly subordinated in right of payment to such Guarantee. Each of the Guarantors hereby agrees that its obligations hereunder shall be full, unconditional and absolute, irrespective of the validity, regularity or enforceability of the Securities or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Securities with respect to any provisions hereof or thereof, the recovery of any judgment against the Company or any Guarantor, or any action to enforce the same or any other circumstances which might otherwise constitute a legal or equitable discharge or defense of the Guarantors. Each of the Guarantors hereby agrees that in the event of a default in payment of the principal of, or premium, if any, or interest on the Securities of such series, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise, legal proceedings may be instituted by the Trustee on behalf of the Holders or, subject to Section 6.06, by the Holders, on the terms and conditions set forth in this Indenture, directly against such Guarantor to enforce such Guarantee without first proceeding against the Company or any other Guarantor.

(4) The obligations of each of the Guarantors under this Article X shall be as aforesaid full, unconditional and absolute and shall not be impaired, modified, released or limited by any occurrence or condition whatsoever, including, without limitation, (i) any compromise, settlement, release, waiver, renewal, extension, indulgence or modification of, or any change in, any of the obligations and liabilities of the Company or any of the Guarantors contained in the Securities or this Indenture, (ii) any impairment, modification, release or limitation of the liability of the Company, any of the Guarantors or any of their estates in bankruptcy, or any remedy for the enforcement thereof, resulting from the operation of any present or future provision of any applicable Bankruptcy Law, as amended, or other statute or from the decision of any court, (iii) the assertion or exercise by the Company, any of the Guarantors or the Trustee of any rights or remedies under the Securities or this Indenture or their delay in or failure to assert or exercise any such rights or remedies, (iv) the assignment or the purported assignment of any property as security for the Securities, including all or any part of the rights of the Company or any of the Guarantors under this Indenture, (v) the extension of the time for payment by the Company or any of the Guarantors of any payments or other sums or any part thereof owing or payable under any of the terms and provisions of the Securities or this Indenture or of the time for performance by the

Company or any of the Guarantors of any other obligations under or arising out of any such terms and provisions or the extension or the renewal of any thereof, (vi) the modification or amendment (whether material or otherwise) of any duty, agreement or obligation of the Company or any of the Guarantors set forth in this Indenture, (vii) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, the Company or any of the Guarantors or any of their respective assets, or the disaffirmance of the Securities, the Guarantee or this Indenture in any such proceeding, (viii) the release or discharge of the Company or any of the Guarantors from the performance or observance of any agreement, covenant, term or condition contained in any of such instruments by operation of law, (ix) the unenforceability of the Securities of such series, the related Guarantees or this Indenture or (x) any other circumstances (other than payment in full or discharge of all amounts guaranteed pursuant to the related Guarantees) which might otherwise constitute a legal or equitable discharge of a surety or guarantor.

(5) Each of the Guarantors hereby (i) waives diligence, presentment, demand of payment, filing of claims with a court in the event of the merger, insolvency or bankruptcy of the Company or any of the Guarantors, and all demands whatsoever, (ii) acknowledges that any agreement, instrument or document evidencing its Guarantee may be transferred and that the benefit of its obligations hereunder shall extend to each holder of any agreement, instrument or document evidencing its Guarantee without notice to it and (iii) covenants that its Guarantee will not be discharged except by complete performance of such Guarantee. Each of the Guarantors further agrees that if at any time all or any part of any payment theretofore applied by any Person to its Guarantee is, or must be, rescinded or returned for any reason whatsoever, including, without limitation, the insolvency, bankruptcy or reorganization of the Company or any of the Guarantors, such Guarantee shall, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence notwithstanding such application, and such Guarantee shall continue to be effective or be reinstated, as the case may be, as though such application had not been made.

(6) Each of the Guarantors shall be subrogated to all rights of the Holders and the Trustee against the Company in respect of any amounts paid by such Guarantor pursuant to the provisions of this Indenture; provided, however, that such Guarantor, shall not be entitled to enforce or to receive any payments arising out of, or based upon, such right of subrogation until all of the Securities of such series and the related Guarantees shall have been paid in full or discharged.

Section 10.02 Execution and Delivery of Guarantees.

To further evidence its Guarantee set forth in Section 10.01, each of the Guarantors hereby agrees that a notation relating to such Guarantee (the “**Notation of Guarantee**”), substantially in the form attached hereto as Annex A, shall be endorsed on each Security of the series entitled to the benefits of such Guarantee authenticated and delivered by the Trustee, which Notation of Guarantee shall be executed by either manual or facsimile signature of an Officer of such Guarantor. Each of the Guarantors hereby agrees that its Guarantee set forth in Section 10.01 shall remain in full force and effect notwithstanding any failure to endorse on each Security the Notation of Guarantee relating to such Guarantee. If any Officer of such Guarantor, whose signature is on this Indenture or the Notation of Guarantee no longer holds that office at the time the Trustee authenticates such Security or at any time thereafter, the Guarantee of such Security shall be valid nevertheless. The delivery of any Security of a series entitled to the benefits of a Guarantee under this Article X by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee set forth in this Indenture on behalf of each Guarantor.

Section 10.03 Limitation on Liability of the Guarantors.

Each Guarantor and by its acceptance hereof each Holder of a Security of a series entitled to the benefits of a Guarantee under this Article X hereby confirms that it is the intention of all such parties that the guarantee by such Guarantor pursuant to its Guarantee not constitute a fraudulent transfer or conveyance for purposes of any federal or state law to the extent applicable to its Guarantee. To effectuate the foregoing intention, the Holders of a Security entitled to the benefits of such Guarantee and the Guarantors hereby irrevocably agree that the obligations of each

Guarantor under its Guarantee shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Guarantee, result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law.

Section 10.04 Release of Guarantors from Guarantee.

(1) Notwithstanding any other provisions of this Indenture, the Guarantee of any Guarantor may be released upon the terms and subject to the conditions set forth in Article VIII and this Section 10.04. *Provided* that no Default shall have occurred and shall be continuing under this Indenture, any Guarantee incurred by a Guarantor pursuant to this Article X shall be unconditionally released and discharged (i) automatically upon (A) any sale, exchange, transfer or other disposition, whether by way of merger, consolidation or otherwise, to any Person that is not the Company or a Subsidiary of the Company, of all of the Company's direct or indirect equity interests in such Guarantor and such Guarantor no longer qualifies as a Subsidiary of the Company as a result of such disposition (*provided* such sale, exchange or transfer is not prohibited by this Indenture) or (B) the merger of such Guarantor into the Company or any other Guarantor or the liquidation and dissolution of such Guarantor (in each case to the extent not prohibited by this Indenture) or (ii) following delivery of a written notice of such release or discharge by the Company to the Trustee, upon the release or discharge of all guarantees by such Guarantor of any Debt of the Company other than obligations arising under this Indenture and any Securities issued hereunder, except a discharge or release by or as a result of payment under such guarantees.

(2) The Trustee shall deliver an appropriate instrument evidencing any release of a Guarantor from its Guarantee upon receipt of a written request of the Company accompanied by an Officers' Certificate and an Opinion of Counsel to the effect that the Guarantor is entitled to such release in accordance with the provisions of this Indenture. If the Guarantor is not so released, it shall remain liable for the full amount of principal of (and premium, if any, on) and interest on the Securities entitled to the benefits of such Guarantee as provided in this Indenture, subject to the limitations of Section 10.03.

(3) At such time as such Guarantor does not Guarantee any Debt of the Company or any other Guarantor under a debt facility (other than the Notes) with banks, institutional lenders or investors.

Section 10.05 Contribution.

In order to provide for just and equitable contribution among the Guarantors, the Guarantors hereby agree, inter se, that in the event any payment or distribution is made by any Guarantor (a "**Funding Guarantor**") under its Guarantee, such Funding Guarantor shall be entitled to a contribution from each other Guarantor (as applicable) in a pro rata amount based on the net assets of each Guarantor (including the Funding Guarantor) for all payments, damages and expenses incurred by that Funding Guarantor in discharging the Company's obligations with respect to the Securities of a series entitled to the benefits of a Guarantee under this Article X or any other Guarantor's obligations with respect to its Guarantee of such series of Securities.

Article XI
Miscellaneous

Section 11.01 Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by operation of TIA § 318(c), the imposed duties shall control.

Section 11.02 Notices.

Any notice or communication by the Company, any Guarantor or the Trustee to the others is duly given if in writing and delivered in person or mailed by first-class mail (registered or certified, return receipt requested), electronic image scan, facsimile or overnight air courier guaranteeing next day delivery, to the other's address:

If to the Company or any of the Guarantors:

[Berry Petroleum Corporation]
[Berry Petroleum Company, LLC]
16000 N. Dallas Parkway, Suite 500
Dallas, Texas 75248
Attention: Chief Financial Officer with a copy to the General Counsel
Facsimile No.: [●]

If to the Trustee:

[]

The Company, any Guarantor or the Trustee by notice to the others may designate additional or different addresses for subsequent notices or communications.

All notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if by facsimile or electronic image scan; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication mailed to a Holder shall be mailed by first-class mail, postage prepaid, to the Holder's address shown on the register kept by the Registrar. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is given in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company or a Guarantor mails a notice or communication to Holders, it shall mail a copy to the Company and the other Guarantors, as the case may be, and to the Trustee and each Agent at the same time.

All notices or communications, including, without limitation, notices to the Trustee, the Company or a Guarantor by Holders, shall be in writing, except as otherwise set forth herein.

Section 11.03 Communication by Holders with Other Holders.

Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Securities. The Company, the Guarantors, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

Section 11.04 Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company or a Guarantor to the Trustee to take any action under this Indenture, the Company or such Guarantor, as the case may be, shall, if requested by the Trustee, furnish to the Trustee:

(1) an Officers' Certificate (which shall include the statements set forth in Section 11.05) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel (which shall include the statements set forth in Section 11.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been complied with.

Section 11.05 Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA § 314(a)(4)) shall comply with the provisions of TIA § 314(e) and shall include:

- (1) a statement that the Person making such certificate or opinion has read such covenant or condition;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (3) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (4) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

Section 11.06 Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or the Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 11.07 Legal Holidays.

If a payment date is a Legal Holiday at a Place of Payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period.

Section 11.08 No Recourse Against Others.

A director, officer, manager, member, employee, stockholder, partner or other owner of the Company, a Guarantor or the Trustee, as such, shall not have any liability for any obligations of the Company under the Securities, for the obligations of any Guarantor under any Guarantee, or for any obligations of the Company, any Guarantor or the Trustee under this Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. Each Holder by accepting a Security waives and releases all such liability. The waiver and release shall be part of the consideration for the issue of Securities.

Section 11.09 Governing Law.

THIS INDENTURE, THE SECURITIES AND THE GUARANTEES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

Section 11.10 No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret another indenture, loan or debt agreement of the Company, any Guarantor or any Subsidiary of the Company. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 11.11 Successors.

All agreements of the Company and each of the Guarantors in this Indenture and the Securities shall bind their successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 11.12 Severability.

In case any provision in this Indenture or in the Securities or in any Guarantee shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall, to the fullest extent permitted by applicable law, not in any way be affected or impaired thereby.

Section 11.13 Counterpart Originals.

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 11.14 Table of Contents, Headings, etc.

The table of contents, cross-reference table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof and shall in no way modify or restrict any of the terms or provisions hereof.

Section 11.15 Waiver of Jury Trial.

EACH OF THE COMPANY, THE GUARANTORS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES OR THE TRANSACTION CONTEMPLATED HEREBY.

Section 11.16 Force Majeure.

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 11.17 USA PATRIOT Act.

The parties hereto acknowledge that in accordance with Section 326 of the USA PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account. The Company and the Guarantors agree that they will provide the Trustee with information about the Company and the Guarantors as the Trustee may reasonably request in order for the Trustee to satisfy the requirements of the USA PATRIOT Act.

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

[BERRY PETROLEUM CORPORATION]
[BERRY PETROLEUM COMPANY, LLC]

By:
Name:
Title:

[NAME(S) OF GUARANTOR(S)]

By:
Name:
Title:

[], as Trustee

By:
Name:
Title:

ANNEX A

NOTATION OF GUARANTEE

Each of the Guarantors (which term includes any successor Person under the Indenture) has fully, unconditionally and absolutely guaranteed, to the extent set forth in the Indenture and subject to the provisions in the Indenture, the due and punctual payment of the principal of, and premium, if any, and interest on the Securities and all other amounts due and payable under the Indenture and the Securities by the Company.

The obligations of the Guarantors to the Holders of Securities and to the Trustee pursuant to the Guarantee and the Indenture are expressly set forth in Article X of the Indenture and reference is hereby made to the Indenture for the precise terms of the Guarantee.

[NAME(S) OF GUARANTOR(S)]

By:
Name:
Title:



August 9, 2019

Berry Petroleum Corporation
16000 N. Dallas Parkway, Suite 500
Dallas, Texas 75248

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel for Berry Petroleum Corporation, a Delaware corporation (the "Company"), and its subsidiary, Berry Petroleum Company, LLC, a Delaware limited liability company ("Berry LLC"), with respect to the preparation and filing of a registration statement on Form S-3 (the "Registration Statement") filed on the date hereof with the Securities and Exchange Commission (the "Commission") in connection with the registration under the Securities Act of 1933, as amended (the "Securities Act"), of the proposed offer and sale by the Company or Berry LLC, as applicable, from time to time, pursuant to Rule 415 under the Securities Act, of up to \$500,000,000 of:

1. Debt securities, which may be issued by the Company or Berry LLC (each, in its capacity as the issuer of such securities, an "Issuer") in one or more series, consisting of notes, debentures or other evidences of indebtedness, certain of which may be convertible into or exchangeable for other securities (the "Debt Securities") and which may be fully and unconditionally guaranteed (the "Guarantees") by the Company or Berry LLC (each, in its capacity as a guarantor of such securities, a "Guarantor");
2. Shares of preferred stock, par value \$0.001 per share, of the Company, in one or more series (the "Preferred Stock"); and
3. Shares of common stock, par value \$0.001 per share, of the Company (the "Common Stock").

The securities described in the foregoing clauses (1), (2) and (3) are collectively referred to herein as the "Securities."

We have also participated in the preparation of the prospectus (the "Prospectus") contained in the Registration Statement to which this opinion is an exhibit.

In connection with the opinions expressed herein, we have examined, among other things, originals or copies, certified or otherwise identified to our satisfaction, of (i) the Registration Statement, including the Prospectus, (ii) the form of Indenture relating to the Debt Securities (the "Indenture"), (iii) the Amended and Restated Certificate of Incorporation of the Company, the Certificate of Amendment of Certificate of Incorporation, the Certificate of Designation, the Certificate of Amendment of Certificate of Designation and the Second Amended and Restated Bylaws of the Company, (iv) the Amended and Restated Certificate of Formation of Berry LLC and the Amended and Restated Limited Liability Company Agreement of Berry

LLC, (v) the records of corporate proceedings that have occurred prior to the date hereof with respect to the Registration Statement and (vi) such other certificates, instruments and documents as we considered appropriate for purposes of the opinions hereafter expressed. We have also reviewed such questions of law as we have deemed necessary or appropriate. As to matters of fact relevant to the opinion expressed herein, and as to factual matters arising in connection with our examination of corporate and limited liability company documents, records and other documents and writings, we relied upon certificates and other communications of corporate officers of the Company, without further investigation as to the facts set forth therein.

In making such examination and rendering the opinion set forth below, we have assumed that:

- (1) each document submitted to us for review is accurate and complete, each such document that is an original is authentic, each such document that is a copy conforms to an authentic original, and all signatures on each such document are genuine;
- (2) each certificate from governmental officials reviewed by us is accurate, complete and authentic, and all official public records are accurate and complete;
- (3) the Registration Statement, and any amendments thereto (including post-effective amendments), will have become effective and comply with all applicable laws;
- (4) a prospectus supplement will have been prepared and filed with the Commission describing the Securities offered thereby;
- (5) the Indenture relating to the Debt Securities will be duly authorized, executed and delivered by the parties thereto;
- (6) at the time of issuance of any Securities by the Company, the Company will be duly incorporated and validly existing and in good standing under the laws of the State of Delaware;
- (7) at the time of issuance of any Securities by Berry LLC, Berry LLC will be validly existing and in good standing under the laws of the State of Delaware;
- (8) at the time of issuance of any Securities, the Company or Berry LLC, as applicable, will have the necessary organizational power and authority to issue the Securities;
- (9) each person signing the documents we examined has the legal capacity and authority to do so;

- (10) the Securities will be issued and sold in compliance with applicable federal and state securities laws and in the manner stated in the Registration Statement and any amendment thereto (including post-effective amendments) and the appropriate prospectus supplement;
- (11) a definitive purchase, underwriting or similar agreement with respect to any Securities offered will have been duly authorized and validly executed and delivered by the Company and the other parties thereto;
- (12) any Securities issuable upon conversion, exchange or exercise of any Security being offered will be duly authorized, created and, if appropriate, reserved for issuance upon such conversion, exchange or exercise; and
- (13) at the time of any offering or sale of any shares of Common Stock or Preferred Stock, the Company shall have such number of shares of Common Stock or Preferred Stock, as set forth in such offering or sale, authorized or created and available for issuance.

Based upon the foregoing, and subject to the qualifications and limitations stated herein, we are of the opinion that:

1. with respect to the Debt Securities, when (a) the applicable Indenture and, if applicable, the related Guarantees have been duly qualified under the Trust Indenture Act of 1939, as amended, (b) the governing body of the applicable Issuer has taken all necessary corporate or limited liability company action to approve the issuance and terms of the Debt Securities and, if applicable, the related Guarantees, the terms of the offering thereof and related matters, (c) the terms of such Debt Securities and, if applicable, the related Guarantees, and of their issuance and sale have been duly established in conformity with the applicable Indenture so as not to violate any applicable law or result in a default under or breach of any agreement or instrument binding upon the Issuer or the Guarantor and so as to comply with any requirements or restrictions imposed by any court or governmental body having jurisdiction over the Issuer or the Guarantor, (d) any shares of Common Stock issuable upon the conversion of such Debt Securities, if applicable, have been duly and validly authorized for issuance and (e) such Debt Securities (which may include the related Guarantees) have been duly executed and authenticated in accordance with the applicable Indenture and issued and sold as contemplated in the applicable prospectus supplement and upon payment of the consideration for such Debt Securities as provided for in the applicable definitive purchase, underwriting or similar agreement, such Debt Securities and, if applicable, the related Guarantees will be legally issued and will constitute valid and legally binding obligations of the Issuer and the Guarantor, respectively, enforceable against the Issuer and the Guarantor in accordance with their terms, except as such enforcement may be subject to any applicable bankruptcy, insolvency (including, without limitation,

all laws relating to fraudulent transfers), reorganization, moratorium and similar laws relating to or affecting creditors' rights generally and to general equitable principles and covenants of good faith and fair dealing (regardless of whether enforcement is sought in a proceeding in equity or at law);

2. with respect to shares of Common Stock offered by the Company, when (a) the Board of Directors (the "Board") of the Company has taken all necessary corporate action to approve the issuance and terms of the offering thereof and related matters and (b) certificates representing the shares of Common Stock have been duly executed, countersigned, registered and delivered (or non-certificated shares of Common Stock shall have been properly issued) either (i) in accordance with the applicable definitive purchase, underwriting or similar agreement approved by the Board, then upon payment of the consideration therefor (not less than the par value of the Common Stock) provided for therein or (ii) upon conversion, exchange or exercise of any other Security in accordance with the terms of the Security or the instrument governing the Security providing for the conversion, exchange or exercise as approved by the Board, for the consideration approved by the Board (not less than the par value of the Common Stock), such shares of Common Stock will be validly issued, fully paid and non-assessable; and
3. with respect to shares of any series of Preferred Stock, when (a) the Board has taken all necessary corporate action to approve the issuance and terms of the shares of the series, the terms of the offering thereof and related matters, including the adoption of a resolution establishing and designating the series and fixing and determining the preferences, limitations and relative rights thereof and the filing of a statement with respect to the series with the Secretary of State of the State of Delaware (the "Certificate of Designation") and (b) certificates representing the shares of the series of Preferred Stock have been duly executed, countersigned, registered and delivered (or non-certificated shares of Preferred Shares shall have been properly issued) either (i) in accordance with the applicable definitive purchase, underwriting or similar agreement approved by the Board, then upon payment of the consideration therefor (not less than the par value of the Preferred Stock) provided for therein; or (ii) upon conversion, exchange or exercise of any other Security in accordance with the terms of the Security or the instrument governing the Security providing for the conversion, exchange or exercise as approved by the Board, for the consideration approved by the Board (not less than the par value of the Preferred Stock), such shares of the series of Preferred Stock will be validly issued, fully paid and non-assessable.

The opinions expressed herein are qualified in the following respects:

- (1) With respect to our opinions expressed above, as they relate to Debt Securities denominated in a currency other than U.S. dollars, we note that effective enforcement of a foreign currency claim in the New York state courts or the federal courts sitting in the State of New York may

be limited by requirements that the claim (or a foreign currency judgment in respect of such claim) be converted to U.S. dollars at the rate of exchange prevailing on a specified date. We express no opinion as to whether a federal court sitting in the State of New York would award a judgment in a currency other than U.S. dollars.

- (2) The enforceability of any document, instrument or Security may be limited by or subject to bankruptcy, insolvency, fraudulent transfer or conveyance, reorganization, moratorium or other similar laws relating to or affecting creditors' rights generally, and general equitable or public policy principles.
- (3) We express no opinions concerning (a) the validity or enforceability of any provisions contained in the Indenture that purport to waive or not give effect to the rights to notices, defenses, subrogation or other rights or benefits that cannot be effectively waived under applicable law; or (b) the enforceability of indemnification provisions to the extent they purport to relate to liabilities resulting from or based upon negligence or any violation of federal or state securities or blue sky laws.
- (4) The foregoing opinions are limited to the laws of the State of New York, the General Corporation Law of the State of Delaware and the Delaware Limited Liability Company Act (including the applicable provisions of the Delaware Constitution and the reported judicial decisions interpreting these laws) and the federal laws of the United States of America, in each case as in effect on the date hereof, including the applicable statutory provisions to these laws, the rules and regulations underlying such provisions, and the applicable judicial and regulatory determinations interpreting these laws, and we undertake no duty to update or supplement the foregoing opinions to reflect any facts or circumstances that may hereafter come to our attention or to reflect any changes in any law that may hereafter occur or become effective. We are expressing no opinion as to the effect of the laws of any other jurisdiction, domestic or foreign.
- (5) The foregoing opinion is limited to the matters expressly stated herein, and no opinion is to be inferred or implied beyond the opinion expressly set forth herein. We undertake no, and hereby disclaim any, obligation to make any inquiry after the date hereof or to advise you of any changes in any matter set forth herein.

We hereby consent to the statements with respect to us under the heading "Legal Matters" in the Prospectus forming a part of the Registration Statement and to the filing of this opinion as an exhibit to the Registration Statement. In giving this consent, we do not admit that we are within the category of persons

whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission issued thereunder.

Very truly yours,

/s/ Vinson & Elkins L.L.P.

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Berry Petroleum Corporation:

We consent to the use of our report dated March 7, 2019, with respect to the consolidated balance sheets of Berry Petroleum Corporation and its subsidiary as of December 31, 2018 (Successor) and December 31, 2017 (Successor), the related consolidated statements of operations, equity, and cash flows for the year ended December 31, 2018 (Successor), the ten months ended December 31, 2017 (Successor), the two months ended February 28, 2017 (Predecessor), and the year ended December 31, 2016 (Predecessor), and the related notes (collectively the “consolidated financial statements”), incorporated herein by reference and to the reference to our firm under the heading “Experts” in the prospectus.

Our report on the consolidated financial statements refers to a change in the basis of presentation for Berry Petroleum Corporation’s emergence from bankruptcy.

/s/ KPMG LLP

Los Angeles, California
August 9, 2019

DeGolyer and MacNaughton

5001 Spring Valley Road
Suite 800 East
Dallas, Texas 75244

August 9, 2019

Berry Petroleum Corporation
16000 N. Dallas Parkway, Suite 500
Dallas, Texas 75248

Ladies and Gentlemen:

We hereby consent to (i) the use of the name DeGolyer and MacNaughton, (ii) references to DeGolyer and MacNaughton as an independent petroleum engineering consulting firm, and (iii) the use of information from, and the incorporation by reference to the Annual Report on Form 10-K for the year ended December 31, 2018 of, our report of third party (our "Letter Report") dated February 1, 2019, containing our opinion of the proved reserves and future net revenue, as of December 31, 2018, of Berry Petroleum Company, LLC in the Registration Statement on Form S-3 (the "Universal Shelf Registration Statement") and the related prospectus that is a part thereof. We further consent to the inclusion of our Letter Report as an exhibit through incorporation by reference in the Universal Shelf Registration Statement. We further consent to the reference to DeGolyer and MacNaughton under the heading "EXPERTS" in the Universal Shelf Registration Statement and related prospectus.

Very truly yours,

/s/ DeGolyer and MacNaughton

DeGOLYER and MacNAUGHTON
Texas Registered Engineering Firm F-716