

OWENS & MINOR INC/VA/

FORM S-3ASR

(Automatic shelf registration statement of securities of well-known seasoned issuers)

Filed 12/12/17

Address	9120 LOCKWOOD BLVD MECHANICSVILLE, VA, 23116
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Sector	Healthcare
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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

**FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

OWENS & MINOR, INC.

(Exact name of registrant as specified in its charter)

Virginia
(State or other jurisdiction of
incorporation or organization)

54-1701843
(I.R.S. Employer
Identification No.)

9120 Lockwood Boulevard
Mechanicsville, Virginia 23116
(804) 723-7000

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

SEE TABLE OF ADDITIONAL REGISTRANTS

Nicholas J. Pace, Esq.
Senior Vice President, General Counsel & Corporate Secretary
9120 Lockwood Boulevard
Mechanicsville, Virginia 23116
(804) 723-7000

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

It is respectfully requested that the Commission send copies of all notices, orders and communications to:

Risè B. Norman, Esq.
Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
(212) 455-2000

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, as amended (the "Securities Act"), 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 filed 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 pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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

Large accelerated filer Accelerated filer

Non-accelerated filer (Do not check if smaller reporting company) Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered(1)(2)	Proposed maximum offering price per security(1)	Proposed maximum aggregate offering price(1)	Amount of registration fee(3)
Debt securities(4)	—	—	—	—
Guarantees of debt securities(4)(5)	—	—	—	—
Common stock	—	—	—	—
Preferred stock	—	—	—	—
Depository shares representing preferred stock(6)	—	—	—	—
Stock purchase contracts	—	—	—	—
Warrants(7)	—	—	—	—
Units(8)	—	—	—	—
Total	—	—	—	—

- (1) Omitted pursuant to General Instruction I.E. of Form S-3. An indeterminate amount of securities of each identified class is being registered as may from time to time be issued at indeterminate prices.
- (2) Includes such indeterminate amount of securities as may be issued upon exercise, conversion or exchange of, pursuant to anti-dilution adjustments, or pursuant to a stock dividend, stock split or similar transaction with respect to, securities that provide for such issuance, exercise, conversion, exchange, adjustment, stock split or similar transaction. Also includes such indeterminate amount as may be issued in units. Separate consideration may or may not be received for any of these securities.
- (3) In accordance with Rules 456(b) and 457(r) under the Securities Act, the registrants are deferring payment of all of the registration fees.
- (4) Debt securities may be issued by Owens & Minor, Inc. or O&M Halyard, Inc. and may be issued without guarantees or may be guaranteed by Owens & Minor, Inc. and/or one or more of the registrants named below under "Table of Additional Registrants." Debt securities may be issued at an original issue discount or at a premium.
- (5) No separate consideration will be paid with respect to any such guarantees. No separate registration fee is required under Rule 457(n) under the Securities Act with respect to the guarantees being registered.
- (6) No separate consideration will be received for the depository shares representing shares of preferred stock issued by Owens & Minor, Inc. No separate registration fee will be paid in respect of any such depository shares.
- (7) The warrants covered by this registration statement may be common stock warrants, preferred stock warrants or debt warrants.
- (8) Any of the securities registered hereunder may be sold separately or as units with other securities registered hereunder.

TABLE OF ADDITIONAL REGISTRANTS

<u>Exact name of registrant as specified in its charter (or other organizational document)</u>	<u>State or other jurisdiction of incorporation or organization</u>	<u>IRS Employer Identification Number</u>	<u>Address, including zip code, of registrant's principal executive offices</u>	<u>Phone number</u>
Owens & Minor Distribution, Inc.	Virginia	54-2049200	9120 Lockwood Boulevard Mechanicsville, Virginia 23116	(804) 723-7000
Owens & Minor Medical, Inc.	Virginia	54-1959151	9120 Lockwood Boulevard Mechanicsville, Virginia 23116	(804) 723-7000
Barista Acquisition I, LLC	Virginia	82-1298510	9120 Lockwood Boulevard Mechanicsville, Virginia 23116	(804) 723-7000
Barista Acquisition II, LLC	Virginia	82-1321407	9120 Lockwood Boulevard Mechanicsville, Virginia 23116	(804) 723-7000
O&M Halyard, Inc.	Virginia	82-3402664	9120 Lockwood Boulevard Mechanicsville, Virginia 23116	(804) 723-7000



Owens & Minor, Inc.

DEBT SECURITIES GUARANTEES OF DEBT SECURITIES COMMON STOCK PREFERRED STOCK DEPOSITARY SHARES STOCK PURCHASE CONTRACTS WARRANTS UNITS

We may, from time to time, offer and sell debt securities, which may be guaranteed by one or more of our subsidiaries. Our wholly owned subsidiary O&M Halyard, Inc. may, from time to time, offer to sell debt securities, which will be guaranteed by us and may be guaranteed by one or more of our other subsidiaries.

We may, from time to time, offer and sell shares of our common stock or our preferred stock, in amounts, at prices, and on terms that will be determined at the time of any such offering.

We may, from time to time, offer and sell stock purchase contracts, warrants to purchase common stock, preferred stock or debt securities, and units comprised of one or more of any of the other securities described in this prospectus, in any combination.

We may offer and sell the securities directly, through agents, dealers or underwriters as designated from time to time, or through a combination of these methods. We reserve the sole right to accept, and we and any agents, dealers and underwriters reserve the right to reject, in whole or in part, any proposed purchase of our securities. If any agents, dealers or underwriters are involved in the sale of any of our securities, the applicable prospectus supplement will set forth any applicable commissions or discounts payable to them. Our net proceeds from the sale of our securities also will be set forth in the applicable prospectus supplement. We also may provide investors with a free writing prospectus that includes this information.

Our common stock is listed on the New York Stock Exchange under the symbol "OMI." If we decide to list or seek a quotation for any other securities, the prospectus supplement relating to those securities will disclose the exchange or market on which those securities will be listed or quoted.

This prospectus describes some of the general terms that may apply to these securities. Each time that we offer any securities using this prospectus, we will provide a prospectus supplement and attach it to this prospectus. The prospectus supplement or a free writing prospectus will contain more specific information about the offering and the securities being offered, including the specific amounts, prices and terms of the securities being offered. The prospectus supplement or free writing prospectus may also add, update or change information contained in this prospectus. This prospectus may not be used to offer and sell the securities unless accompanied by a prospectus supplement.

You should read this prospectus and the applicable prospectus supplement, as well as the documents incorporated by reference in this prospectus and in any accompanying prospectus supplement, carefully before you invest.

Investing in our securities involves risks. See "[Risk Factors](#)" beginning on page 2 of this prospectus and the risk factors described in any accompanying prospectus supplement or any documents we incorporate by reference.

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

The date of this prospectus is December 12, 2017

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You should rely only on the information contained or incorporated by reference in this prospectus and in any accompanying prospectus supplement or in any related free writing prospectus. We have not authorized anyone to provide you with different information. We take no responsibility for and can provide no assurance as to the reliability of any other information that others may give you. This document may only be used where it is legal to sell these securities. You should only assume that the information contained or incorporated by reference in this prospectus or in any accompanying prospectus supplement or any related free writing prospectus is accurate as of the respective date on the front of those documents. Our business, financial condition, results of operations and prospects may have changed since that date. We are not making an offer of these securities in any jurisdiction where the offer is not permitted.

ABOUT THIS PROSPECTUS

This prospectus is part of an automatic shelf registration statement that we filed with the Securities and Exchange Commission, or the SEC, as a “well-known seasoned issuer” as defined in Rule 405 under the Securities Act of 1933, as amended, or the Securities Act. By using an automatic shelf registration statement, we may, at any time and from time to time, sell securities under this prospectus in one or more offerings in an unlimited amount. As allowed by the SEC rules, this prospectus does not contain all of the information included in the registration statement. For further information, we refer you to the registration statement, including its exhibits. Statements contained in this prospectus about the provisions or contents of any agreement or other document are not necessarily complete. If the SEC’s rules and regulations require that an agreement or document be filed as an exhibit to the registration statement, please see that agreement or document for a complete description of these matters.

This prospectus provides you with a general description of the securities we may offer. Each time we use this prospectus to offer securities, we will provide you with a prospectus supplement that will describe the

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specific amounts, prices and terms of the securities being offered. The prospectus supplement may also add, update or change information contained in this prospectus. Therefore, if there is any inconsistency between the information in this prospectus and the prospectus supplement, you should rely on the information in the prospectus supplement.

To understand the terms of our securities, you should carefully read this document and the applicable prospectus supplement. Together, they provide the specific terms of the securities we are offering. You should also read the documents we have referred you to under “Where You Can Find More Information” below for information on our company, the risks we face and our financial statements. The registration statement and exhibits can be read at the SEC’s website or at the SEC as described under “Where You Can Find More Information.”

References in this prospectus to “Owens & Minor,” “our company,” “we,” “us” and “our” refer to Owens & Minor, Inc. and its subsidiaries, unless otherwise specified or unless otherwise required.

References herein to “\$,” “dollars” and “U.S. dollars” are to United States dollars, and financial data included or incorporated by reference herein have been presented in accordance with accounting principles generally accepted in the United States of America.

WHERE YOU CAN FIND MORE INFORMATION

We are a public company subject to the information and reporting requirements of the Securities Exchange Act of 1934, as amended, or the Exchange Act. Pursuant to the requirements of the Exchange Act, we file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available to the public over the Internet at the SEC’s website at www.sec.gov or at our website at www.owens-minor.com (as noted below, the information contained in, or that can be accessed through, our website is not a part of this prospectus or part of any prospectus supplement). You may also read and copy any document we file with the SEC at its public reference room at 100 F Street, N.E., Washington, D.C. 20549. In addition, you can inspect reports and other information we file at the office of the New York Stock Exchange, Inc., 20 Broad Street, New York, New York 10005.

You may also obtain copies of this information at prescribed rates by writing to the Office of Investor Education and Advocacy of the SEC at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference facilities.

Our SEC filings are available at the office of the New York Stock Exchange. For further information on obtaining copies of our public filings at the New York Stock Exchange, you should call (212) 656-3000.

DOCUMENTS INCORPORATED BY REFERENCE

The SEC allows us to “incorporate by reference” into this prospectus information that we file with the SEC. This means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede any inconsistent information in this prospectus and in our other filings with the SEC.

We incorporate by reference the following documents that we previously filed with the SEC (other than information in such documents that is deemed not to be filed), all of which are filed under SEC File No. 001-09810:

- our Annual Report on Form 10-K for the fiscal year ended December 31, 2016 (including the portions of our definitive proxy statement on Schedule 14A filed with the SEC on March 22, 2017, incorporated by reference therein);

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- our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2017, June 30, 2017 and September 30, 2017;
- our Current Reports on Form 8-K filed with the SEC on February 10, 2017, May 8, 2017, July 28, 2017, August 2, 2017 (Item 8.01 only) and November 1, 2017 (Item 1.01 only);
- our Current Report on Form 8-K/A filed with the SEC on November 1, 2017 (Item 1.01 only); and
- our Form 8-A filed with the SEC on July 13, 2004, including any amendments or supplements thereto.

These documents contain important information about our business and our financial performance.

We also incorporate by reference any future filings we make with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, on or after the date of the filing of the registration statement and prior to the termination of the offering, all of which will be filed under SEC File No. 001-09810. Our future filings with the SEC will automatically update and supersede any inconsistent information in this prospectus.

You may request a copy of these filings at no cost, by writing or telephoning us at the following address: Corporate Secretary, Owens & Minor, Inc., 9120 Lockwood Boulevard, Mechanicsville, Virginia 23116, (804) 723-7000. We also make these filings available at no cost through the “SEC Filings” on our website located at www.owens-minor.com as soon as reasonably practicable after they are filed with the SEC. The information contained in, or that can be accessed through, our website is not a part of this prospectus or part of any prospectus supplement.

FORWARD-LOOKING STATEMENTS

Some of the information included or incorporated by reference in this prospectus and the applicable prospectus supplement contains “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. Although we believe our expectations with respect to the forward-looking statements are based upon reasonable assumptions within the bounds of our knowledge of our business and operations, all forward-looking statements involve risks and uncertainties and, as a result, actual results could differ materially from those projected, anticipated or implied by these statements. Such forward-looking statements involve known and unknown risks, including, but not limited to:

- competitive pressures in the marketplace, including intense pricing pressure;
- our ability to retain existing and attract new customers in a market characterized by significant customer consolidation and intense cost-containment initiatives;
- our dependence on sales to certain customers or the loss or material reduction in purchases by key customers;
- our dependence on distribution of product of certain suppliers;
- our ability to successfully identify, manage or integrate acquisitions;
- our ability to successfully manage our international operations, including risks associated with changes in international trade regulations, foreign currency volatility, changes in regulatory conditions, deteriorating economic conditions, adverse tax consequences, and other risks of operating in international markets;
- uncertainties related to and our ability to adapt to changes in government regulations, including healthcare laws and regulations (including the Affordable Care Act);
- risks arising from possible violations of legal, regulatory or licensing requirements of the markets in which we operate;

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- uncertainties related to general economic, regulatory and business conditions;
- our ability to successfully implement our strategic initiatives;
- the availability of and modifications to existing supplier funding programs and our ability to meet the terms to qualify for certain of these programs;
- our ability to adapt to changes in product pricing and other terms of purchase by suppliers of product;
- the ability of customers and suppliers to meet financial commitments due to us;
- changes in manufacturer preferences between direct sales and wholesale distribution;
- changing trends in customer profiles and ordering patterns and our ability to meet customer demand for additional value-added services;
- our ability to manage operating expenses and improve operational efficiencies in response to changing customer profiles;
- our ability to meet performance targets specified by customer contracts under contractual commitments;
- availability of and our ability to access special inventory buying opportunities;
- the ability of business partners and financial institutions to perform their contractual responsibilities;
- the effect of price volatility in the commodities markets, including fuel price fluctuations, on our operating costs and supplier product prices;
- our ability to continue to obtain financing at reasonable rates and to manage financing costs and interest rate risk;
- the risk that information systems are interrupted or damaged or fail for any extended period of time, that new information systems are not successfully implemented or integrated, or that there is a data security breach in our information systems;
- the risk that a decline in business volume or profitability could result in an impairment of goodwill or other long-lived assets;
- our ability to timely or adequately respond to technological advances in the medical supply industry;
- the costs associated with and outcome of outstanding and any future litigation, including product and professional liability claims;
- adverse changes in U.S. and foreign tax laws and the outcome of outstanding tax contingencies and legislative and tax proposals; and
- other factors detailed from time to time in the reports we file with the SEC, including those described in “Item 1A. Risk Factors” of our Annual Report on Form 10-K for the year ended December 31, 2016 and “Item 1A. Risk Factors” of our Quarterly Report on Form 10-Q for the quarter ended September 30, 2017.

We undertake no obligation to update or revise any forward-looking statements, except as required by applicable law.

THE COMPANY

Owens & Minor, Inc. and subsidiaries, a Fortune 500 company headquartered in Richmond, Virginia, is a leading global healthcare solutions company that connects the world of medical products to the point of care. We provide vital supply chain assistance to the providers of healthcare services and the manufacturers of healthcare products, supplies and devices. With fully developed networks in the United States and Europe, we are equipped to serve a customer base ranging from hospitals, integrated healthcare systems, group purchasing organizations, and the U.S. federal government, to manufacturers of life-science and medical devices and supplies, including pharmaceuticals in Europe.

We focus our operations on healthcare logistics services and provide our customers with a service portfolio that covers procurement, inventory management, delivery and sourcing of products for the healthcare market. Through organic growth and acquisitions over many years, we significantly expanded and strengthened our company, achieving national scale in the United States healthcare market. In 2012, through the acquisition of the Movianto Group (Movianto), we entered into third-party logistics services for the pharmaceutical, biotechnology and medical device industries in the European market, leveraging an existing platform that also expands our ability to serve our United States-based manufacturer customers on an international level.

In 2014, we acquired Medical Action Industries Inc. (Medical Action), a leading producer of surgical kits and procedure trays for the healthcare market, and ArcRoyal, a privately held surgical kitting company based in Ireland. These acquisitions further expanded our capabilities to offer our provider and manufacturer customers a range of kitting services, including the ability to combine instruments and supplies into sterilized custom procedure trays used in a variety of clinical procedures, such as cardiac and orthopedic procedures, and sterilized minor procedure kits and trays which are used in a wide variety of minor surgical and medical procedures, such as I.V. start kits and suture removal. This approach enables healthcare providers to track and manage the supply chain for products, supplies and instruments used in clinical settings. On August 1, 2017, we completed the acquisition of Byram Healthcare (Byram), a leading domestic distributor of reimbursable medical supplies sold directly to patients and home health agencies. The acquisition of Byram allows us to further our strategy to expand our services along the continuum of care.

We report our operations using three distinct business units: Domestic, International and Proprietary Products. Domestic is our U.S. distribution, logistics and value-added services business. Byram, acquired on August 1, 2017, is included in the Domestic segment. International is our European distribution, logistics and value-added services business. Proprietary Products (formerly named Clinical & Procedural Solutions or CPS) provides product-related solutions, including surgical and procedural kitting and sourcing. Founded in 1882, Owens & Minor, Inc. was incorporated in 1926 in Richmond, Virginia. Our executive and administrative offices are located at 9120 Lockwood Boulevard, Mechanicsville, Virginia 23116. Our telephone number is (804) 723-7000. Our website is located at www.owens-minor.com. The information contained in, or that can be accessed through, our website is not part of this prospectus or any prospectus supplement.

RISK FACTORS

Our business is subject to uncertainties and risks. You should carefully consider and evaluate all of the information included and incorporated by reference in this prospectus, including the risk factors incorporated by reference from our most recent Annual Report on Form 10-K and subsequent Quarterly Reports on Form 10-Q, as well as any risk factors we may describe in any subsequent periodic reports or information we file with the SEC. It is possible that our business, financial condition, liquidity or results of operations could be materially adversely affected by any of these risks.

USE OF PROCEEDS

Unless we otherwise state in the applicable prospectus supplement or free writing prospectus, we intend to use the net proceeds from the sale of the securities for general corporate purposes. General corporate purposes may include repayment of debt, additions to working capital, capital expenditures, investments in our subsidiaries, possible acquisitions and the repurchase, redemption or retirement of securities, including shares of our common stock. The net proceeds may be temporarily invested or applied to repay short-term or revolving debt prior to use.

RATIOS OF EARNINGS TO FIXED CHARGES, COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS

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

	Nine Months Ended	Year Ended December 31,				
	September 30,	2016	2015	2014(2)	2013	2012
Ratio of earnings to fixed charges(1)	2.8x	4.4x	4.3x	3.1x	5.7x	6.3x

- (1) For purposes of computing the ratios of earnings to fixed charges, “earnings” consist of income from continuing operations before income taxes and fixed charges. “Fixed charges” consist of interest expense, amortization of debt issuance costs and one-third of rental expense (the portion considered representative of the interest factor). As there were no shares of preferred stock outstanding for the periods presented, the ratios of earnings to combined fixed charges and preferred stock dividends do not differ from the ratio of earnings to fixed charges presented above.
- (2) Fixed charges include \$14.9 million (\$17.4 million redemption premium less \$2.5 million gain on interest swaps), both associated with the retirement of all of our \$200 million aggregate principal amount of 6.35% senior notes in 2014.

GENERAL DESCRIPTION OF SECURITIES THAT MAY BE SOLD

This prospectus contains summary descriptions of the debt securities (and any associated guarantees), common stock, preferred stock, depositary shares, stock purchase contracts, warrants and units that we may sell from time to time. These summary descriptions are not meant to be complete descriptions of each security. The particular terms of any security will be described in the related prospectus supplement.

DESCRIPTION OF DEBT SECURITIES AND GUARANTEES

This section describes the general terms and provisions of the debt securities that may be offered by this prospectus. In this “Description of Debt Securities and Guarantees” section, references to “we,” “us” and “our” are only to Owens & Minor, Inc. and not its subsidiaries. The term “issuer” means Owens & Minor, Inc. or O&M Halyard, Inc., a wholly owned subsidiary of Owens & Minor, Inc., depending on which registrant is offering the debt securities, and the term “issuers” is a collective reference to Owens & Minor, Inc. and O&M Halyard, Inc., the registrants offering debt securities using this prospectus. The term “parent guarantor” refers to Owens & Minor, Inc. and the term “subsidiary issuer” refers to O&M Halyard, Inc.

The debt securities issued by us will be issued under an indenture to be entered into by us as the issuer, certain subsidiary guarantors and the trustee, with the specific terms and conditions set forth in a supplemental indenture or officers’ certificate. The debt securities issued by the subsidiary issuer will be issued under an indenture to be entered into by us as the parent guarantor, the subsidiary issuer, certain subsidiary guarantors and the trustee, with the specific terms and conditions set forth in a supplemental indenture or officers’ certificate. This section does not describe every aspect of the indentures or the debt securities. The following discussion of certain provisions of the indentures is a summary only and should not be considered a complete description of the terms and provisions of the indentures. Accordingly, the following discussion is subject to and qualified in its entirety by reference to the provisions of the applicable indenture, as supplemented, including definitions of some of the terms used in such indenture. Copies of the forms of indenture are filed as exhibits to the registration statement of which this prospectus is a part. See “Where You Can Find More Information” for information on how to obtain copies. A form of each debt security and the supplemental indenture or officers’ certificate, reflecting the specific terms and provisions of that series of debt securities, will be filed with the SEC in connection with each offering and will be incorporated by reference in the registration statement of which this prospectus forms a part. You should also refer to the Trust Indenture Act of 1939, as amended, certain terms of which are made a part of the indentures by reference.

The terms of the series described in the prospectus supplement relating to that series may vary from the terms described in this prospectus. The prospectus supplement relating to each series of debt securities will be attached to the front of this prospectus.

The issuers may issue as many distinct series of debt securities under their respective indentures as they wish without limitation as to aggregate principal amount under the terms of such indenture. The indentures do not limit the ability of the issuers to incur additional indebtedness. This section summarizes the material terms of the debt securities, although the prospectus supplement that describes the terms of each series of debt securities may also describe differences with the material terms summarized in this prospectus.

The debt securities may rank equally with other senior unsubordinated debt or may be subordinated to other debt the applicable issuer has or may incur. In the event that any series of debt securities will be subordinated to other indebtedness that the applicable issuer has outstanding or may incur, the terms of the subordination will be set forth in the prospectus supplement relating to the subordinated debt securities.

Capitalized terms used below are defined under “—Certain Definitions.”

General

The specific financial, legal and other terms relating to a particular series of debt securities will be described in a prospectus supplement. The prospectus supplement relating to a series of debt securities will describe to the extent applicable, the following terms of the series:

- the title of the series of debt securities;
- whether a series of debt securities will be senior or subordinated;

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- whether and the extent to which a series of debt securities will be guaranteed;
- whether and the extent to which a series of debt securities will be secured;
- any limit on the aggregate principal amount of the series of debt securities and whether such series may be reopened for the issuance of additional debt securities of such series;
- the Person to whom interest on a debt security is payable, if other than the holder on the regular record date;
- the date or dates on which the series of debt securities will mature;
- the rate or rates, which may be fixed or variable, per annum at which the series of debt securities will bear interest, if any, and the date or dates from which that interest, if any, will accrue;
- the place or places where the principal of (and premium, if any) and interest on the debt securities is payable;
- the dates on which interest on the series of debt securities will be payable and the regular record dates for the interest payment dates;
- any mandatory or optional sinking funds or analogous provisions or provisions for redemption, in whole or in part, at the applicable issuer's option or the option of the holder;
- the date, if any, after which and the price or prices at which the series of debt securities may, in accordance with any optional or mandatory redemption provisions, be redeemed and the other detailed terms and provisions of those optional or mandatory redemption provisions, if any;
- if the debt securities may be converted into or exercised or exchanged for the applicable issuer's common stock or preferred stock, the terms on which conversion, exercise or exchange may occur, including whether conversion, exercise or exchange is mandatory, at the option of the holder or at the applicable issuer's option, the period during which conversion, exercise or exchange may occur, the initial conversion, exercise or exchange price or rate and the circumstances or manner in which the amount of common stock or preferred stock issuable upon conversion, exercise or exchange may be adjusted;
- if other than denominations of \$1,000 and any integral multiple thereof, the denominations in which the series of debt securities will be issuable;
- if other than the principal amount thereof, the portion of the principal amount of the series of debt securities that will be payable upon the declaration of acceleration of the maturity of such series of debt securities;
- the currency of payment of principal, premium, if any, and interest on the series of debt securities, if other than the currency of the United States;
- if the currency of payment for principal, premium, if any, and interest on the series of debt securities is subject to the applicable issuer's or a holder's election, the currency or currencies in which payment can be made and the period within which, and the terms and conditions upon which, the election can be made;
- any index, formula or other method used to determine the amount of payment of principal or premium, if any, and interest on the series of debt securities;
- any addition or change to the restrictive covenants applicable to such series of debt securities;
- whether the debt securities will be subject to defeasance as described under “—Defeasance” or otherwise;
- any event of default under the series of debt securities if different from, or in addition to, those described under “—Default and Related Matters—Events of Default—What Is an Event of Default?”

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- if the series of debt securities will be initially issuable only in the form of a global security, as described under “—Legal Ownership—Global Securities,” the depository or its nominee with respect to the series of debt securities, if other than The Depository Trust Company, and the circumstances under which the global security may be registered for transfer or exchange or authenticated and delivered in the name of a Person other than the depository or its nominee;
- the location where the security register will be maintained and the location of the paying agent;
- any proposed listing of the series of debt securities on any securities exchange; and
- any other terms, additional covenants, or special features of the series of debt securities.

The applicable prospectus supplement will also describe any applicable material U.S. federal income tax consequences.

We and the subsidiary issuer may issue the debt securities as original issue discount securities, which are securities that are offered and sold at a substantial discount to their stated principal amount. The prospectus supplement relating to original issue discount securities will describe federal income tax consequences and other special considerations applicable to any such debt securities. The debt securities may also be issued as indexed securities or securities denominated in foreign currencies or currency units, as described in more detail in the prospectus supplement relating to any such debt securities. The prospectus supplement relating to specific debt securities will also describe any special considerations and any material additional tax considerations applicable to such debt securities.

Guarantees

The debt securities of any series will be guaranteed by each of our current and future wholly owned domestic subsidiaries that has outstanding, incurs or guarantees Specified Indebtedness (such guarantees, the “subsidiary guarantees”) and, in the case of debt securities issued by the subsidiary issuer, such series of debt securities will also be guaranteed by us (such guarantee, the “parent guarantee” and together with the subsidiary guarantees, the “guarantees”).

The guarantees will be joint and several obligations of the guarantors. Unless otherwise provided in the prospectus supplement relating to a series of guaranteed debt securities, each guarantor of the debt securities of such series will fully and unconditionally guarantee the due and punctual payment of the principal of, and premium, if any, and interest, if any, on and any other amounts payable with respect to, each debt security of such series and the due and punctual performance of all other obligations under the applicable indenture with respect to the debt securities of such series, all in accordance with the terms of such debt securities and such indenture.

The obligations of each guarantor under its guarantee will be limited as necessary to prevent that guarantee from constituting a fraudulent conveyance under applicable law. However, there can be no assurance that, notwithstanding such limitation, a court would not determine that a guarantee constituted a fraudulent conveyance or fraudulent transfer under applicable law. If that were to occur, the court could void the applicable guarantor’s obligations under that guarantee, subordinate that guarantee to other debt and other liabilities of that guarantor or take other action detrimental to holders of the debt securities of the applicable series, including directing the holders to return any payments received from the applicable guarantor.

A guarantor of debt securities may not sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such guarantor is the surviving Person), another Person, other than us or another guarantor, unless immediately after giving effect to that transaction, no default or event of default exists and the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the obligations of that guarantor under the applicable indenture (including its subsidiary guarantee) pursuant to agreements reasonably satisfactory to the trustee.

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The subsidiary guarantee of a guarantor will be released with respect to a particular series of debt securities:

- at such time as such guarantor ceases to have outstanding or guarantee any Specified Indebtedness;
- upon the applicable issuer's exercise of its legal defeasance option (described under “—Defeasance—Legal Defeasance” below) or its covenant defeasance option (described under “—Defeasance—Covenant Defeasance” below) or the applicable issuer's obligations under the applicable indenture being discharged in accordance with the terms of such indenture; or
- as specified in the applicable prospectus supplement.

Our parent guarantee will be released with respect to a particular series of debt securities:

- upon the subsidiary issuer delivering to the trustee an officers' certificate confirming ongoing compliance by such issuer of the financial reporting obligations described under “—Reports”;
- upon any merger or consolidation of the parent guarantor with the subsidiary issuer;
- upon the subsidiary issuer's exercise of its legal defeasance option (described under “—Defeasance—Legal Defeasance” below) or its covenant defeasance option (described under “—Defeasance—Covenant Defeasance” below) or the subsidiary issuer's obligations under the applicable indenture being discharged in accordance with the terms of such indenture;
- upon payment in full of the aggregate principal amount of all debt securities of such series then outstanding and all other applicable guaranteed obligations under our parent guarantee then due and owing; or
- as specified in the applicable prospectus supplement.

Unless otherwise expressly stated in the applicable prospectus supplement, each guarantee of a senior debt security will be the unsecured senior obligation of the applicable guarantor and will rank equally in right of payment to all other unsecured senior indebtedness and guarantees of such indebtedness of such guarantor.

Each unsecured guarantee will be effectively subordinated to all existing and future secured indebtedness and secured guarantees of the applicable guarantor to the extent of the value of the collateral securing that indebtedness and those guarantees. Consequently, in the event of a bankruptcy, liquidation, dissolution, reorganization or similar proceeding with respect to any guarantor that has provided an unsecured guarantee of any debt securities, the holders of that guarantor's secured indebtedness and secured guarantees will be entitled to proceed directly against the collateral that secures that secured indebtedness or those secured guarantees, as the case may be, and such collateral will not be available for satisfaction of any amount owed by such guarantor under its unsecured indebtedness and unsecured guarantees, including its unsecured guarantees of any debt securities, until that secured debt and those secured guarantees are satisfied in full.

Form, Exchange and Transfer

The debt securities will be issued:

- only in fully registered form;
- without interest coupons; and
- unless otherwise indicated in the prospectus supplement, in denominations of \$1,000 and any integral multiple thereof.

A global security will be issued in denominations equal to the aggregate principal amount of outstanding debt securities represented by that global security. See “—Legal Ownership” below for additional information regarding global securities and the limitations on your rights as the beneficial owner of an interest in a global security.

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You may have your debt securities broken into more debt securities of smaller authorized denominations or combined into fewer debt securities of larger authorized denominations, as long as the total principal amount is not changed. This is called an exchange.

You may exchange or transfer debt securities at the office of the trustee. The trustee acts as the applicable issuer's agent for registering debt securities in the names of holders and transferring debt securities. The applicable issuer may change this appointment to another entity or perform the service itself. The entity performing the role of maintaining the list of registered holders is called the security registrar. It will also register transfers of the debt securities.

You will not be required to pay a service charge to transfer or exchange debt securities, but you may be required to pay for any tax or other governmental charge associated with the exchange or transfer. The transfer or exchange will only be made if the security registrar is satisfied with your proof of ownership.

If the applicable issuer designates additional transfer agents, they will be named in the prospectus supplement. The applicable issuer may cancel the designation of any particular transfer agent. The applicable issuer may also approve a change in the office through which any transfer agent acts.

Payment and Paying Agents

The applicable issuer will pay interest to you if you are a holder listed in the trustee's records at the close of business on a particular day in advance of each due date for interest, even if you no longer own the debt security on the interest due date. That particular day, usually about two weeks in advance of the interest due date, is called the regular record date and will be stated in a prospectus supplement. Holders buying and selling debt securities must work out between them how to compensate for the fact that the applicable issuer will pay all the interest for an interest period to the one who is the registered holder on the regular record date. The most common manner is to adjust the sales price of the debt securities to pro rate interest fairly between buyer and seller. This prorated interest amount is called accrued interest.

Unless the prospectus supplement states otherwise, the applicable issuer will pay principal, interest and any other money due on the debt securities at the office of the paying agent whom such issuer will designate for this purpose. The paying agent will pay interest and any other money due on debt securities issued as global securities by wire transfer to the holder of those global securities. You must make arrangements to have your payments on debt securities that are not in global form picked up at, or wired from, that office; the applicable issuer may also choose to pay interest by mailing checks.

Unless the prospectus supplement states otherwise, an office or agency of the trustee in New York City will be designated as the applicable issuer's sole paying agent for payments with respect to the debt securities of each series. The applicable issuer may also arrange for additional paying agents, and may change paying agents, including the applicable issuer's use of the trustee's corporate trust office. The applicable issuer may also choose to act as its own paying agent. The applicable issuer must notify the trustee of changes in the paying agents for any particular series of debt securities.

Regardless of who acts as paying agent, all money paid by the applicable issuer to a paying agent that remains unclaimed at the end of two years after the amount is due to holders will be repaid to such issuer. After that two-year period, you may look only to the applicable issuer for payment and not to the trustee, any other paying agent or anyone else.

Certain Covenants

If debt securities are issued, the applicable indenture, as supplemented for a particular series of debt securities, will contain certain covenants for the benefit of the holders of such series of debt securities, which will

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be applicable (unless waived or amended) so long as any of the debt securities of such series are outstanding, unless stated otherwise in the prospectus supplement. The specific terms of the covenants, and summaries thereof, will be set forth in the prospectus supplement relating to such series of debt securities.

Merger, Consolidation, Sale, Lease or Conveyance

The applicable issuer will not merge or consolidate with or into any other Person and will not sell, lease or convey, in a single transaction or in a series of transactions, all or substantially all of its assets to any Person, unless:

- the surviving, continuing or successor Person (if other than the applicable issuer) or the Person that acquires all or substantially all of its assets (a) is an entity organized and existing under the laws of the United States or a State thereof or the District of Columbia, provided that if such entity is not a corporation, a co-obligor of the debt securities is a corporation organized or existing under such laws, and (b) expressly and unconditionally assumes all of the applicable issuer's obligations under the debt securities and the applicable indenture or assumes such obligations as a matter of law;
- immediately after giving effect to such merger, consolidation, sale, lease or conveyance, there is no default or event of default under the applicable indenture; and
- the applicable issuer delivers or causes to be delivered to the trustee an officers' certificate and opinion of counsel each stating that the merger, consolidation, sale, lease or conveyance complies with the applicable indenture.

Reports

The applicable issuer will file with the trustee and the SEC, and transmit to holders of debt securities, certain information, documents and other reports. If the applicable issuer is not required to file information, documents or reports pursuant to Section 13 or Section 15(d) of the Exchange Act, then it will file with the trustee and the SEC, in accordance with the rules and regulations prescribed from time to time by the SEC, such of the information, documents and other reports, and such summaries thereof, which may be required pursuant to Section 13 of the Exchange Act. The applicable issuer will be deemed to have furnished such reports to holders of debt securities if we have filed such reports with the SEC using the EDGAR (or successor) filing system and such reports are publicly available.

Notwithstanding the foregoing, the subsidiary issuer may satisfy such financial reporting obligations by furnishing financial information relating to the parent guarantor; provided that the same is accompanied by consolidating financial information for the parent guarantor, the subsidiary issuer, our guarantor subsidiaries and our non-guarantor subsidiaries in the manner prescribed by the SEC.

Subordination

Debt securities of a series may be subordinated, which we refer to as subordinated debt securities, to senior indebtedness (as defined in the applicable prospectus supplement) to the extent set forth in the prospectus supplement relating thereto. To the extent the applicable issuer conducts operations through its subsidiaries, the holders of debt securities (whether or not subordinated debt securities) will be structurally subordinated to the creditors of the applicable issuer's subsidiaries.

Default and Related Matters

Events of Default

You will have special rights if an event of default occurs and is not cured, as described later in this subsection.

What Is an Event of Default? The term “event of default” in the applicable indenture means, with respect to any series of debt securities, any of the following:

- the applicable issuer does not pay the principal of or any premium on a debt security of that series on its due date;
- the applicable issuer does not pay interest on a debt security within 30 days of its due date;
- the applicable issuer does not deposit a sinking fund payment within 30 days of its due date;
- the applicable issuer fails to comply with the conditions described above under “—Merger, Consolidation, Sale, Lease or Conveyance”;
- the applicable issuer fails to perform or remains in breach of any covenant contained in the applicable indenture for the benefit of the debt securities of that series or any other term of the applicable indenture for 60 days after such issuer receives a written notice of default stating that it is in breach and requiring such breach to be remedied. The notice must be sent by either the trustee or holders of at least 25% of the aggregate principal amount of the outstanding debt securities of the affected series;
- the applicable issuer or any Significant Subsidiary, defaults under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the applicable issuer or any of its Significant Subsidiaries (or the payment of which is guaranteed by the applicable issuer or any of its Significant Subsidiaries), other than Indebtedness owed to the applicable issuer or a Significant Subsidiary of such issuer, whether such Indebtedness or guarantee now exists, or is created after the date of the applicable indenture, which default:
 - (a) is caused by a failure to pay principal of, or interest or premium on such Indebtedness prior to the expiration of the grace period provided in such Indebtedness (“payment default”); or
 - (b) results in the acceleration of such Indebtedness prior to its maturity (the “cross acceleration provision”);and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, aggregates \$50 million or more;
- the applicable issuer or any of its Significant Subsidiaries files for, or consents to the filing of, bankruptcy or certain other events of bankruptcy, insolvency or reorganization occur;
- any guarantee ceases to be in full force and effect (except as contemplated by the terms thereof) or any guarantor or Person acting by or on behalf of such guarantor denies or disaffirms its obligations under the applicable indenture or any guarantee; or
- any other event of default provided for with respect to a particular series of debt securities and described in the related prospectus supplement.

An event of default for a particular series of debt securities does not necessarily constitute an event of default for any other series of debt securities issued under the applicable indenture.

Remedies If an Event of Default Occurs . If an event of default has occurred and has not been cured, the trustee or the holders of 25% in aggregate principal amount of the outstanding debt securities of the affected series may declare the entire principal amount of all the debt securities of that series to be due and immediately payable. This is called a declaration of acceleration of maturity. If, however, the applicable issuer or any of its Significant Subsidiaries files for, or consents to the filing of, bankruptcy or certain other events of bankruptcy, insolvency or reorganization occur, all of the debt securities of all series shall become immediately due and payable without any declaration of acceleration of maturity or any other action on the part of the trustee or the holders of the debt securities. After any such acceleration, but before a judgment or decree based on acceleration

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is entered and becomes final, the holders of a majority in aggregate principal amount of the outstanding debt securities of the affected series may, under certain circumstances, rescind and annul such acceleration and its consequences if all events of default in respect of such series, other than the non-payment of accelerated principal (or other specified amount), have been cured or waived as provided in the indenture and certain other conditions are met. See “—Modification and Waiver.”

Reference is made to the prospectus supplement relating to any series of debt securities that are original issue discount securities for the particular provisions relating to acceleration of the maturity of a portion of the principal amount of original issue discount securities upon the occurrence of an event of default and its continuation.

Except in cases of default, where the trustee has some special duties, the trustee is not required to take any action under the indentures at the request of any holders unless the holders offer the trustee reasonable protection from expenses and liability, called an indemnity. If reasonable indemnity is provided, the holders of a majority in principal amount of the outstanding debt securities of the relevant series may direct the time, method and place of conducting any lawsuit or other formal legal action seeking any remedy available to the trustee. These majority holders may also direct the trustee in performing any other action under the applicable indenture with respect to the debt securities of that series, provided that certain conditions are met. The trustee may withhold notice of any default, except a default in the payment of principal, premium, interest or any sinking fund installments, from the holders of any series of debt securities if the trustee in good faith considers it to be in the interest of holders of such series to do so.

Before you bypass the trustee and bring your own lawsuit or other formal legal action or take other steps to enforce your rights or protect your interests relating to the debt securities, the following must occur:

- you must give the trustee written notice that an event of default has occurred and remains uncured;
- the holders of at least 25% in aggregate principal amount of all outstanding debt securities of that series must make a written request that the trustee take action because of the event of default, and must offer satisfactory indemnity to the trustee against the cost, expenses and liabilities of taking that action;
- the trustee must have not received during the 60-day period referred to below from holders of a majority in aggregate principal amount of the outstanding debt securities of that series a direction inconsistent with the written notice; and
- the trustee must have not taken action for 60 days after receipt of the above notice, request and offer of indemnity.

However, you are entitled at any time to bring a lawsuit for the payment of money due on your debt securities on or after its due date.

Street name and other indirect holders should consult their banks or brokers for information on how to give notice or direction to or make a request of the trustee and to make or cancel a declaration of acceleration.

The applicable issuer will furnish to the trustee every year a written statement of certain of its officers certifying that to their knowledge such issuer is in compliance with the applicable indenture and the debt securities issued under it, or else specifying any default or event of default and its status.

Modification and Waiver

The indentures permit the applicable issuer to make three types of changes to the applicable indenture and the debt securities issued under such indenture.

Changes Requiring Your Approval . First, there are changes that cannot be made to debt securities without the approval of each holder affected thereby. Following is a list of those types of changes:

- change the payment date of the principal or any installment of principal or interest on a debt security;
- reduce any other amounts due on a debt security;
- reduce the amount of principal due and payable upon acceleration of the maturity of a debt security (including the current payable on an original issue discount security) following a default;
- change the place or currency of payment on a debt security;
- impair your right to institute suit to enforce any payment of any amount due on your debt security;
- impair any right that you may have to exchange or convert the debt security for or into other securities;
- change the relative seniority or ranking of a debt security;
- in the case of any subordinated debt security, change any provision of the indenture relating to subordination that adversely affects the rights of any holder under such provisions;
- change any provision of the indenture relating to a debt security that adversely affects the rights of any holder under such provisions;
- reduce the percentage in aggregate principal amount of the debt securities of any series the consent of whose holders is needed to modify or amend the indenture or any supplement thereto;
- reduce the percentage in aggregate principal amount of the debt securities of any series the consent of whose holders is needed to waive the applicable issuer’s compliance with certain provisions of the indenture or any supplement thereto or to waive certain defaults;
- release any guarantor from any of its obligations under its guarantee or the indenture, except in accordance with the terms of the applicable indenture; and
- modify any other aspect of the provisions dealing with modification and waiver of the applicable indenture or any supplement thereto.

Changes Requiring a Majority Vote . The second type of change to the indentures or any supplement thereto and the debt securities is the kind that requires a vote in favor by holders owning a majority of the principal amount of all series affected by the change, each series voting together as a single class. Most other changes, including waivers, as described below, fall into this category, except for changes noted above as requiring the approval of the holders of each debt security of any series affected thereby, and, as noted below, changes not requiring any approval.

The applicable issuer would need a vote by holders of a majority of the principal amount of all series affected by the waiver, each series voting together as a single class, to obtain a waiver of certain of the restrictive covenants. The applicable issuer also would need holders of a majority of the principal amount of the relevant affected series to obtain a waiver of any past default with respect to such series, except a payment default listed in the first or second category described above under “—Default and Related Matters—Events of Default—What is an Event of Default?” which may not be waived.

Each indenture provides that a supplemental indenture that changes or eliminates any covenant or other provision of such indenture that has expressly been included solely for the benefit of one or more particular series of securities, or that modifies the rights of the holders of securities of such series with respect to such covenant or other provision, will be deemed not to affect the rights under such indenture of the holders of securities of any other series.

Changes Not Requiring Approval . The third type of change does not require any vote by holders of the debt securities. This type is limited to clarifications and certain other changes that would benefit or would not adversely affect holders of the debt securities.

Further Details Concerning Voting . When taking a vote, the applicable issuer will use the following rules to decide how much principal amount to attribute to a debt security:

- for original issue discount securities, the applicable issuer will use the principal amount that would be due and payable on the voting date if the maturity of the debt securities were accelerated to that date because of a default;
- for debt securities whose principal amount is not known (for example, because it is based on an index) the applicable issuer will use a special rule for that debt security described in a prospectus supplement; and
- for debt securities denominated in one or more foreign currencies or currency units, the applicable issuer will use the U.S. dollar equivalent determined as of a specified date.

Debt securities will not be considered outstanding, and therefore will not be eligible to vote, if the applicable issuer has deposited or set aside in trust for you money for their payment or redemption or if they have been fully defeased, as described under “—Defeasance—Legal Defeasance.” Debt securities owned by us, our subsidiaries or any of our or their affiliates will also not be considered outstanding or eligible to vote.

If the applicable issuer determines to set a record date, the applicable issuer will generally be entitled to set any day as a record date for the purpose of determining the holders of outstanding debt securities that are entitled to vote or take other action under the indenture. In some circumstances, the trustee will be entitled to set a record date for action by holders. If the trustee sets a record date for a vote or other action to be taken by holders of the a particular series, that vote or action may be taken only by persons who are holders of outstanding securities of that series on the record date and the action voted upon must be effective within 90 days following the record date.

Street name and other indirect holders should consult their banks or brokers for information on how approval may be granted or denied if the applicable issuer seeks to change the applicable indenture or the debt securities request a waiver.

Defeasance

Legal Defeasance

If there is a change in federal income tax law, as described below, the applicable issuer can legally release itself and the applicable guarantors from any payment or other obligations, with certain limited exceptions, on any series of debt securities, called legal defeasance, if the applicable issuer puts in place the following arrangements for you to be repaid:

- the applicable issuer must deposit, or cause to be deposited, in trust for your benefit and the benefit of all other holders of that series of debt securities an amount of cash and U.S. government notes or bonds that will generate enough cash to make interest, principal, premium and any other payments on that series of debt securities on their due date;
- the applicable issuer must deliver to the trustee a legal opinion of its counsel that is based on and confirms the tax law change described below;
- no event of default or event that with the passage of time or the giving of notice, or both, shall constitute an event of default shall have occurred and be continuing at the time of the deposit described above (other than resulting from the borrowing of funds to be applied to such deposit) or, with respect to an event or default described in the seventh bullet point under “—Default and Related Matters—Events of Default—What is an Event of Default?”, on the later of (1) the 91st day after the date of the deposit or (2) the day ending on the day following the expiration of the longest preference period under any bankruptcy law applicable to the applicable issuer in respect of such deposit;

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- such deposit and defeasance will not result in a breach or violation of, or constitute a default under, any agreement or instrument to which the applicable issuer is a party or by which it is bound; and
- the applicable issuer must comply with certain other conditions.

The applicable issuer must obtain an opinion of its counsel that, based on a change in current federal income tax law or a U.S. Internal Revenue Service ruling, the above deposit will not cause you to be taxed on the debt securities any differently than if the applicable issuer did not make the deposit and just repaid the debt securities at maturity or redemption.

In the event of legal defeasance you would have to rely solely on the trust holding the deposited cash and/or U.S. government notes or bonds for repayment of the debt securities. You could not look to the applicable issuer for repayment in the unlikely event of any shortfall. Conversely, the trust would most likely be protected from claims of the applicable issuer's lenders and other creditors if such issuer ever becomes bankrupt or insolvent.

Covenant Defeasance

Under current federal income tax law, the applicable issuer can make the same type of deposit described above under “—Defeasance—Legal Defeasance” and be released from some of the restrictive covenants in the debt securities. This is called covenant defeasance. In that event, you would lose the protection of those restrictive covenants but would gain the protection of having cash and/or U.S. government notes or bonds set aside in trust to repay the debt securities. In order to achieve covenant defeasance, the applicable issuer must do the following:

- the applicable issuer must deposit, or cause to be deposited, in trust for your benefit and the benefit of all other holders of that series of debt securities an amount of cash and U.S. government notes or bonds that will generate enough cash to make interest, principal, premium and any other payments on that series of debt securities on their due date;
- the applicable issuer must deliver to the trustee a legal opinion of its counsel confirming that under current federal income tax law the applicable issuer may make the above deposit without causing you to be taxed on the debt securities any differently than if the applicable issuer did not make the deposit and just repaid the debt securities at maturity or redemption;
- no event of default or event that with the passage of time or the giving of notice, or both, shall constitute an event of default shall have occurred and be continuing at the time of the deposit described above (other than resulting from the borrowing of funds to be applied to such deposit) or, with respect to an event of default described in the seventh bullet point under “—Default and Related Matters—Events of Default—What is an Event of Default?”, on the later of (1) the 91st day after the date of the deposit or (2) the day ending on the day following the expiration of the longest preference period under any bankruptcy law applicable to the applicable issuer in respect of such deposit;
- such deposit and defeasance will not result in a breach or violation of, or constitute a default under, any agreement or instrument to which the applicable issuer is a party or by which it is bound; and
- the applicable issuer must comply with certain other conditions.

If the applicable issuer accomplishes covenant defeasance, the following provisions, among others, of the indentures and the debt securities would no longer apply:

- the events of default relating to breach of covenants, described under “—Default and Related Matters—Events of Default—What Is an Event of Default?”; and
- any other covenants applicable in the series of debt securities described in the prospectus supplement.

If the applicable issuer accomplishes covenant defeasance, you could still look to such issuer for repayment of the debt securities if there were a shortfall in the trust. In fact, if one of the remaining events of default occurs,

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such as the applicable issuer's bankruptcy, and the debt securities become immediately due and payable, there may be a shortfall in the trust.

Redemption

Provisions relating to the redemption of debt securities, if any, will be set forth in the applicable prospectus supplement. Unless the applicable issuer states otherwise in the applicable prospectus supplement, the applicable issuer may redeem debt securities only upon notice mailed at least 15 but not more than 60 days before the date fixed for redemption. Unless the applicable issuer states otherwise in the applicable prospectus supplement, that notice may state that (1) the redemption will be conditional upon the trustee or paying agent receiving sufficient funds to pay the principal, premium and interest on the debt securities subject to redemption on the date fixed for redemption and (2) if the trustee or the paying agent does not receive those funds, the redemption notice will not apply, and the applicable issuer will not be required to redeem the debt securities subject to redemption.

If the debt securities of a particular series are redeemable and the applicable issuer redeems less than all of the debt securities of that series, such issuer may block the transfer or exchange of debt securities during the period beginning 15 days before the day the applicable issuer mails the notice of redemption and ending on the day of that mailing, in order to freeze the list of holders to prepare the mailing. The applicable issuer may also refuse to register transfers or exchanges of debt securities selected for redemption, except that such issuer will continue to permit transfers and exchanges of the unredeemed portion of any debt security being partially redeemed.

Notices

The applicable issuer and the trustee will send notices regarding the debt securities only to holders at their addresses as listed in the records of the security registrar.

Governing Law

The indentures and the debt securities (including any guarantees endorsed on the debt securities, if any) will be governed by, and construed in accordance with, the laws of the State of New York.

Legal Ownership

Global Securities

What Is a Global Security? A global security is a special type of indirectly held security, as described below under “—Indirect Holders.”

If the applicable issuer chooses to issue debt securities in the form of global securities, the ultimate beneficial owners can only be indirect holders. The applicable issuer does this by requiring that the global security be registered in the name of a financial institution such issuer selects and by requiring that the debt securities included in the global security not be transferred to the name of any other direct holder unless the special circumstances described below occur. The financial institution that acts as the sole direct holder of the global security is called the depositary.

Any Person wishing to own a debt security included in the global security must do so indirectly by virtue of an account with a broker, bank or other financial institution that in turn has an account with the depositary. The prospectus supplement will indicate whether your series of debt securities will initially be issued only in the form of global securities.

Special Investor Considerations for Global Securities . As an indirect holder, an investor's rights relating to a global security will be governed by the account rules of the investor's financial institution and of the

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depository, as well as general laws relating to securities transfers. The applicable issuer does not recognize this type of investor as a registered holder of debt securities and instead deal only with the depository that holds the global security.

If you are an investor in debt securities that are issued only in the form of global securities, you should be aware that generally:

- you cannot get debt securities registered in your own name;
- you cannot receive physical certificates for your interest in the debt securities;
- you will be a street name holder and must look to your own bank or broker for payments on the debt securities and protection of your legal rights relating to the debt securities. See “—Indirect Holders;”
- you may not be able to sell interests in the debt securities to some insurance companies and other institutions that are required by law to own their securities in the form of physical certificates;
- the depository’s policies will govern payments, transfers, exchanges and other matters relating to your interest in the global security. The applicable issuer and the trustee have no responsibility for any aspect of the depository’s actions or for its records of ownership interests in the global security. The applicable issuer and the trustee also do not supervise the depository in any way; and
- the depository will require that interests in a global security be purchased or sold within its system using same-day funds for settlement.

Special Situations When Global Security Will Be Exchanged For Physical Certificates . In a few special situations described below, interests in the global security will be exchanged for physical certificates representing debt securities. After that exchange, the choice of whether to hold debt securities directly or indirectly will be up to you. You must consult your own bank or broker to find out how to have your interests in debt securities transferred to your own name, so that you will be a direct holder. The rights of direct and indirect holders in the debt securities are described below under “—Direct Holders” and “—Indirect Holders.”

The special situations when a global security may be exchanged for physical certificates are:

- when the depository notifies the applicable issuer that it is unwilling, unable or no longer qualified to continue as depository and no successor depository has been appointed within 90 days after this notice;
- when the applicable issuer notifies the trustee that such issuer wishes to exchange physical certificates for the global security, provided that such issuer understands that under current industry practices, The Depository Trust Company would notify its participants of this determination, but would only withdraw beneficial interests from a global security at the request of participants; or
- when an event of default on the debt securities has occurred and has not been cured.

Defaults are discussed above under “—Default and Related Matters.”

The prospectus supplement may also list additional situations when a global security may be exchanged for physical certificates that would apply only to the particular series of debt securities covered by that prospectus supplement. When physical certificates are to be exchanged for a global security, the depository (and not the applicable issuer or the trustee) is responsible for deciding the names of the institutions that will be the initial direct holders of the physical certificates.

Direct Holders

The applicable issuer’s obligations, as well as the obligations of the trustee and those of any third parties employed by the applicable issuer or the trustee, are only to persons or entities who are the direct holders of debt

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securities (i.e., those who are registered as holders of debt securities). As noted below, the applicable issuer does not have obligations to you if you hold through indirect means, either because you choose to hold debt securities in that manner or because the debt securities are issued in the form of global securities as described above. For example, once the applicable issuer makes payment to the registered holder, the applicable issuer has no further responsibility for the payment even if that registered holder is legally required to pass the payment along to you as a street name customer but does not do so.

Indirect Holders

Investors who hold debt securities in accounts at banks or brokers will not be recognized by the applicable issuer as legal holders of debt securities. These intermediary banks, brokers and other financial institutions pass along principal, interest and other payments on the debt securities, either because they agree to do so in their customer agreements or because they are legally required to do so. If you hold debt securities in street name, you should check with your own institution to find out:

- how it handles securities payments and notices;
- whether it imposes fees or charges;
- how it would handle voting if ever required;
- whether and how you can instruct it to send you debt securities registered in your own name so you can be a direct holder as described below; and
- how it would pursue rights under the debt securities if there were a default or other event triggering the need for holders to act to protect their interests.

Certain Definitions

Set forth below are certain defined terms used in the indentures. Reference is made to the applicable indenture for a full disclosure of all such terms.

“*Credit Agreement*” means the Credit Agreement, dated as of July 27, 2017, by and among Owens & Minor Distribution, Inc., Owens & Minor Medical, Inc., Barista Acquisition I, LLC and Barista Acquisition II, LLC (as U.S. borrowers), Owens & Minor, Inc. and certain of its domestic subsidiaries as may become parties thereto from time to time (as guarantors), Wells Fargo Bank, N.A. (as administrative agent), Bank of America, N.A., JPMorgan Chase Bank, N.A. and SunTrust Bank (as co-syndication agents), and the other banks from time to time party thereto, as amended from time to time.

“*Credit Facilities*” means, one or more debt facilities, commercial paper facilities, or capital markets financings (whether or not registered with the SEC), in each case with banks, investment banks (acting as underwriters, placement agents or dealers), other institutional lenders or investors or trustees providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables), letters of credit, or capital markets financings, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

“*GAAP*” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession.

“*Indebtedness*” means all items classified as indebtedness on the most recently available balance sheet of the issuer and its consolidated subsidiaries, in accordance with GAAP.

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

“*Significant Subsidiary*” means (1) any guarantor or (2) any of our subsidiaries that would be a “Significant Subsidiary” of the issuer within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC.

“*Specified Indebtedness*” means (1) any Indebtedness under the Credit Agreement and (2) any Indebtedness incurred under Credit Facilities that refinance such Indebtedness.

DESCRIPTION OF CAPITAL STOCK

The following is a description of the material terms of, and is qualified in its entirety by, our amended and restated articles of incorporation and amended and restated bylaws, which are filed as exhibits to the registration statement of which this prospectus is a part.

Our authorized capital stock consists of 200,000,000 shares of common stock, par value \$2.00 per share, and 10,000,000 shares of cumulative preferred stock, par value \$100.00 per share. As of December 1, 2017, 61,255,854 shares of our common stock were issued and outstanding and no shares of our preferred stock were issued and outstanding.

Common Stock

Dividends

Subject to the rights of any series of preferred stock that we may issue, the holders of common stock may receive dividends when, as and if declared by our board of directors, out of our assets legally available therefor.

Voting Rights

Holders of shares of our common stock are entitled to one vote for each share held of record on all matters on which shareholders are entitled to vote generally, including the election or removal of directors. In uncontested elections, directors are elected by a majority of the votes cast in the election for such director nominee. The holders of our common stock do not have cumulative voting rights in the election of directors. The affirmative vote of more than two-thirds of the outstanding shares of common stock is required for certain amendments to our amended and restated articles of incorporation and the approval of mergers, statutory share exchanges, certain sales or other dispositions of assets outside the usual and regular course of business, conversions, domestications and dissolutions. All other matters to be voted on by shareholders must be approved by a majority of the votes cast on the matter.

Liquidation Rights

Upon our dissolution, liquidation or winding up and after payment in full of all amounts required to be paid to creditors and to the holders of shares of our preferred stock having liquidation preferences, if any, the holders of shares of our common stock will be entitled to receive pro rata our remaining assets available for distribution.

Other Rights

Holders of shares of our common stock do not have preemptive, subscription, redemption or conversion rights. Shares of our common stock will not be subject to further calls or assessment by us. There will be no redemption or sinking fund provisions applicable to shares of our common stock. The rights, powers, preferences and privileges of holders of shares of our common stock will be subject to those of the holders of any shares of our preferred stock that we may authorize and issue in the future.

The transfer agent and registrar for shares of our common stock is Computershare.

Our common stock is listed on the New York Stock Exchange under the symbol "OMI."

Preferred Stock

Our amended and restated articles of incorporation authorize our board of directors to establish one or more series of shares of preferred stock (including shares of convertible preferred stock). Unless required by law or by

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the New York Stock Exchange, the authorized shares of preferred stock will be available for issuance without further action by you. Our board of directors is able to determine, with respect to any series of shares of preferred stock, the powers (including voting powers), preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, including:

- the rate of dividend, the time of payment and the dates from which any dividends shall be cumulative and the extent of participation rights, if any;
- any right to vote with holders of shares of any other series or class and any right to vote as a class either generally or as a condition to specified corporate action, subject to certain limitations;
- the price at which and the terms and conditions upon which shares may be redeemed;
- the amount payable upon shares in the event of involuntary or voluntary liquidation;
- sinking fund provisions of the redemption or purchase of shares, if any; and
- the terms and conditions upon which shares may be converted, if the shares of any series are issued with the privilege of conversion.

Anti-Takeover Provisions

Certain provisions in our amended and restated articles of incorporation and our amended and restated bylaws, as well as certain provisions of Virginia law, may make more difficult or discourage a takeover of our business or removal of our incumbent directors or officers.

Certain Provisions of Our Amended and Restated Articles of Incorporation and Amended and Restated Bylaws

Election and Removal of Directors; Vacancies . Each of our directors is elected by the vote of a majority of the votes cast at any meeting of shareholders for the election of directors at which a quorum is present, provided that if the number of director nominees at such meeting exceeds the number of directors to be elected, the directors are elected by a plurality of the votes cast. Under our amended and restated bylaws, a majority of the votes cast means that the number of shares voted “for” a director must exceed the number of shares voted “against” that director.

Our directors are elected for one-year terms and can be removed, with or without cause, if the number of votes cast for removal at a shareholder meeting called for that purpose at which a quorum is present constitutes a majority of the votes entitled to be cast at an election of directors. Our amended and restated bylaws currently provide that the total number of directors is 11. The number of directors may be increased or decreased by amendment of our amended and restated bylaws.

Vacancies in the board may be filled by shareholders or by the board. Subject to the rights of any preferred stock, any vacancy on our board of directors resulting from any death, resignation, retirement, disqualification, removal from office or newly created directorship resulting from an increase in the authorized number of directors or otherwise may be filled by majority vote of the remaining directors then in office, even if less than a quorum, or shareholders.

Special Meetings of Shareholders . Special meetings of shareholders may be called at any time and from time to time only by the chairman of our board of directors, our chief executive officer or by a majority of the board of directors.

Advance Notice Requirements for Shareholder Director Nominations and Shareholder Business . Our amended and restated bylaws require that advance notice of shareholder director nominations and shareholder business for annual meetings be made in writing and given to our corporate secretary, together with certain specified information, not later than 120 days before the anniversary of the immediately preceding annual meeting of shareholders, subject to other timing requirements as specified in our amended and restated bylaws.

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Authorized but Unissued Capital Stock . Our amended and restated articles of incorporation currently authorize more capital stock than we have issued. The listing requirements of the New York Stock Exchange, which will apply so long as our common stock remains listed on the New York Stock Exchange, require shareholder approval of certain issuances equal to or exceeding 20% of then-outstanding voting power or then-outstanding number of shares of common stock. These additional shares may be used for a variety of corporate purposes, including future public offerings, to raise additional capital or to facilitate acquisitions.

One of the effects of the existence of unissued and unreserved common stock or preferred stock may be to enable our board of directors to issue shares to persons friendly to current management, which issuance could render more difficult or discourage an attempt to obtain control of our company by means of a merger, tender offer, proxy contest or otherwise, and thereby protect the continuity of our management and possibly deprive the shareholders of opportunities to sell their shares of common stock at prices higher than prevailing market prices.

Certain Provisions of Virginia Law

Control Share Acquisitions Statute . Virginia law contains provisions relating to “control share acquisitions,” which are transactions causing the voting power of any person acquiring beneficial ownership of shares of a Virginia public corporation to meet or exceed certain threshold percentages (20%, 33 1/3% or 50%) of the total votes entitled to be cast for the election of directors. Under Virginia law, shares acquired in a control share acquisition have no voting rights unless granted by a majority vote of all outstanding shares entitled to vote in the election of directors other than those held by the acquiring person or held by any officer or employee director of the corporation, unless at the time of any control share acquisition, the articles of incorporation or bylaws of the corporation provide that this statute does not apply to acquisitions of its shares. An acquiring person that owns 5% or more of the corporation’s voting stock may require that a special meeting of the shareholders be held, within 50 days of the acquiring person’s request, to consider the grant of voting rights to the shares acquired or to be acquired in the control share acquisition. If voting rights are not granted and the corporation’s articles of incorporation or bylaws permit, the acquiring person’s shares may be redeemed by the corporation, at the corporation’s option, at a price per share equal to the acquiring person’s cost. Unless otherwise provided in the corporation’s articles of incorporation or bylaws, the Virginia law grants appraisal rights to any shareholder who objects to a control share acquisition that is approved by a vote of disinterested shareholders and that gives the acquiring person control of a majority of the corporation’s voting shares. As permitted by Virginia law, we have opted out of the Virginia anti-takeover law regulating control share acquisitions.

Affiliated Transactions Statute . Virginia law also contains provisions governing “affiliated transactions.” An affiliated transaction is generally defined as a merger, a share exchange, a material disposition of corporate assets not in the ordinary course of business, any dissolution of the corporation proposed by or on behalf of a holder of more than 10% of any class of the corporation’s outstanding voting shares (a “10% holder”) or any reclassification, including reverse stock splits, recapitalization or merger of the corporation with its subsidiaries, that increases the percentage of voting shares owned beneficially by a 10% holder by more than 5%. In general, these provisions prohibit a Virginia corporation from engaging in affiliated transactions with any 10% holder for a period of three years following the date that such person became a 10% holder unless (1) the board of directors of the corporation and the holders of two-thirds of the voting shares, other than the shares beneficially owned by the 10% holder, approve the affiliated transaction or (2) before the date the person became a 10% holder, the board of directors approved the transaction that resulted in the shareholder becoming a 10% holder. Virginia law permits corporations to opt out of the affiliated transactions provisions. We have not opted out of the Virginia anti-takeover law regulating affiliated transactions.

Shareholder Action by Unanimous Consent . Virginia law provides that, unless provided otherwise in a Virginia corporation’s articles of incorporation, any action that could be taken by shareholders at a meeting may be taken, instead, without a meeting and without notice if a consent in writing is signed by all the shareholders entitled to vote on the action. Our amended and restated articles of incorporation do not include a provision that permits shareholders to take action without a meeting other than by unanimous written consent.

Limitations on Liability and Indemnification of Officers and Directors

Virginia law permits, and our amended and restated articles of incorporation provide for, the indemnification of our directors and officers with respect to certain liabilities and expenses imposed upon them in connection with any civil, criminal or other proceeding by reason of having been a director or officer of our company. This indemnification does not apply in the case of willful misconduct or a knowing violation of the criminal law. Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers or persons controlling us pursuant to the foregoing provisions, we have been informed that, in the opinion of the SEC, indemnification for liabilities under the Securities Act is against public policy and is unenforceable.

DESCRIPTION OF DEPOSITARY SHARES

We summarize below some of the provisions that will apply to depositary shares unless the applicable prospectus supplement provides otherwise. This summary does not contain all of the information that may be important to you. The complete terms of the depositary shares will be set forth in the deposit agreement and depositary receipt for the applicable depositary shares. The forms of deposit agreement and related depositary receipt that will be entered into with respect to a particular offering of depositary shares will be filed as an exhibit to the registration statement of which this prospectus is a part or a document that is incorporated or deemed to be incorporated by reference in this prospectus. The particular terms of any depositary shares and the related depositary receipts and deposit agreement will be described in the applicable prospectus supplement. You should read the deposit agreement and the depositary receipt. You should also read the applicable prospectus supplement, which will contain additional information and which may update or change some of the information below.

General

We may offer fractional shares of preferred stock of any class or series rather than full preferred shares. If we do, we will deposit preferred stock of such class or series with a bank, trust company or other financial institution as depositary, with respect to such deposit agreement (the “Depositary”) and cause such Depositary to issue depositary receipts evidencing the related depositary shares, each of which will represent a fractional interest (to be set forth in the applicable prospectus supplement) of a share of such class or series, as the case may be, of preferred stock.

The preferred stock represented by depositary shares will be deposited under a separate deposit agreement between us and the applicable Depositary. Subject to the terms of the deposit agreement, each holder of a depositary receipt issued under that deposit agreement will be entitled, in proportion to the applicable fraction of a preferred share represented by the related depositary share, to all the rights and preferences of the preferred stock represented thereby (including, if applicable and subject to the matters discussed below, any distribution, voting, redemption, conversion, exchange and liquidation rights).

The applicable prospectus supplement relating to the depositary shares offered thereby will set forth their specific terms, including, when applicable:

- the terms of the class or series of preferred stock deposited by us under the related deposit agreement, the number of such depositary shares and the fraction of one share of such preferred stock represented by one such depositary share;
- whether such depositary shares will be listed on any securities exchange; and
- any other specific terms of such depositary shares and the related deposit agreement.

Depositary receipts may be surrendered for transfer or exchange at any office or agency of the relevant Depositary maintained for that purpose, subject to the terms of the related deposit agreement. Unless otherwise specified in the applicable prospectus supplement, depositary receipts will be issued in denominations evidencing any whole number of depositary shares. No service charge will be made for any permitted transfer or exchange of depositary receipts, but we or the Depositary may require payment of any tax or other governmental charge payable in connection therewith.

Pending the preparation of definitive depositary receipts, the Depositary may, upon our written order, execute and deliver temporary depositary receipts which are substantially similar to, and entitle the holders thereof to all the rights pertaining to, the definitive depositary receipts. Depositary receipts will be prepared thereafter and, when definitive depositary receipts are available, temporary depositary receipts will be exchangeable for definitive depositary receipts at our expense.

Dividends and Other Distributions

If we pay a cash distribution or dividend on a series of preferred stock represented by depositary shares, the Depositary will distribute all cash distributions received in respect of the deposited preferred shares to the record holders, as of the relevant record date, of depositary receipts relating to such preferred shares in proportion, insofar as possible, to the numbers of such depositary shares owned by such holders on such record date. The Depositary will distribute only such amount, however, as can be distributed without distributing to any holder of depositary receipts a fraction of one cent, and any balance not so distributed will be added to and treated as part of the next sum, if any, received by the Depositary for distribution to record holders of those depositary receipts.

In the event of a distribution in property other than in cash, the Depositary will distribute property received by it to the record holders, as of the relevant record date, of depositary receipts entitled thereto in proportion, insofar as possible, to the number of depositary shares owned by such holders on such record date. If, however, the Depositary determines that it is not feasible to make such distribution, it may, with our approval, adopt such method as it deems equitable and practicable for the purpose of effecting such distribution, including the sale (public or private) of such property and the distribution of the net proceeds from such sale to such holders.

The deposit agreement may also contain provisions relating to the manner in which any subscription or similar rights offering offered by us to holders of the related class or series of preferred shares will be made available to holders of depositary receipts.

The amount distributed in any of the foregoing cases will be reduced by any amount required to be withheld by us or the Depositary on account of taxes.

Redemption and Repurchase of Preferred Stock

If we redeem a class or series of preferred stock represented by depositary shares, the Depositary will redeem the depositary shares from the proceeds received by the Depositary resulting from the redemption, in whole or in part, of such class or series of preferred shares held by the Depositary. The redemption price per depositary share will be equal to the applicable fraction of the redemption price and of any other amounts or property per share payable upon such redemption with respect to the preferred stock so redeemed. Whenever we redeem preferred shares held by the Depositary, the Depositary will redeem as of the same date the number of depositary shares representing the preferred shares so redeemed, provided that we have paid in full to the Depositary the redemption price of the preferred shares to be redeemed plus any other amounts or property payable upon such redemption with respect to the shares to be so redeemed. If fewer than all the depositary shares are to be redeemed at our option, the depositary shares to be redeemed will be selected by the Depositary by lot or pro rata or by any other equitable method as may be determined by the Depositary. If the depositary shares evidenced by a depositary receipt are to be redeemed in part only, a new depositary receipt will be issued for any depositary shares not so redeemed.

After the date fixed for redemption, the depositary shares so called for redemption will no longer be deemed to be outstanding and all rights of the holders of the related depositary receipts with respect to the depositary shares so called for redemption will cease, except the right to receive any monies or other property payable upon redemption upon surrender of such depositary receipts to the Depositary.

Depositary shares, as such, are not subject to repurchase by us at the option of the holders. Nevertheless, if the preferred stock represented by depositary shares is subject to repurchase at the option of the holders, then, on the terms and subject to the conditions applicable to such preferred stock, the related depositary receipts may be surrendered by the holders thereof to the Depositary with written instructions to the Depositary to instruct us to repurchase the preferred stock represented by the depositary shares evidenced by such depositary receipts at the applicable repurchase price. Upon receipt of such instructions and subject to our having funds legally available therefor, we will repurchase the requisite whole number of shares of such preferred stock from the Depositary,

who in turn will repurchase such depositary receipts. Notwithstanding the foregoing, holders shall only be entitled to request the repurchase of depositary shares representing one or more whole shares of the related preferred stock. The repurchase price per depositary share will be equal to the repurchase price and any other amounts or property payable per share upon such redemption with respect to the preferred shares multiplied by the fraction of a preferred share represented by one depositary share. If the depositary shares evidenced by a depositary receipt are to be repurchased in part only, one or more new depositary receipts will be issued for any depositary shares not to be repurchased.

Withdrawal of Preferred Stock

Except as may be otherwise provided in the applicable prospectus supplement, any holder of depositary receipts, upon surrender of the depositary receipts at the applicable office or agency of the Depositary (unless the related depositary shares have previously been called for redemption), subject to the terms of the deposit agreement, may demand delivery of the number of whole shares of the related class or series of preferred stock and any money or other property represented by such depositary receipts. Partial shares of preferred stock will not be issued. Holders shall only be entitled to request the withdrawal of one or more whole shares of the related preferred stock and must surrender depositary receipts evidencing depositary shares that in turn represent such whole shares of preferred stock. Holders of depositary receipts making such withdrawals will be entitled to receive whole preferred shares on the basis set forth in the related prospectus supplement, but holders of such whole shares of preferred stock will not thereafter be entitled to deposit such preferred stock under the deposit agreement or to receive depositary receipts therefor. If the depositary receipts surrendered by the holder in connection with such withdrawal evidence a number of depositary shares representing more than the number of whole preferred shares to be withdrawn, the Depositary will deliver to such holder at the same time a new depositary receipt evidencing such excess number of depositary shares.

Voting Deposited Preferred Stock

Upon receipt of notice of any meeting at which the holders of any class or series of deposited preferred stock are entitled to vote, the Depositary will mail the information contained in such notice of meeting to the record holders of the depositary shares relating to such class or series of preferred stock. Each record holder of such depositary shares on the record date (which will be the same date as the record date for the relevant class or series of preferred stock) may instruct the Depositary as to how to vote the preferred stock represented by such holder's depositary shares. The Depositary will endeavor, insofar as practicable, to vote the number of shares of preferred stock represented by such depositary shares in accordance with such instructions, and we will take all reasonable actions that may be deemed necessary by the Depositary in order to enable the Depositary to do so. The Depositary will abstain from voting preferred shares to the extent it does not receive specific instructions from the holders of depositary shares representing such preferred stock.

Conversion and Exchange of Preferred Stock

If the preferred stock represented by depositary shares is exchangeable at our option for other securities, then, whenever we exercise our option to exchange all or a portion of such preferred stock held by the Depositary, the Depositary will exchange as of the same date a number of such depositary shares representing such preferred stock so exchanged, provided we shall have issued and delivered to the Depositary the securities for which such preferred stock is to be exchanged. The exchange rate per depositary share shall be equal to the exchange rate per preferred share multiplied by the fraction of a preferred share represented by one depositary share. If less than all of the depositary shares are to be exchanged, the depositary shares to be exchanged will be selected by the Depositary by lot or pro rata or other equitable method, in each case as may be determined by us. If the depositary shares evidenced by a depositary receipt are to be exchanged in part only, a new depositary receipt or receipts will be issued for any depositary shares not to be exchanged.

Depositary shares, as such, are not convertible or exchangeable at the option of the holders into other securities or property. Nevertheless, if the preferred stock represented by depositary shares is convertible into or

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exchangeable for other securities or property at the option of the holders, then, on the terms and subject to the conditions applicable to such preferred stock, the related depositary receipts may be surrendered by holders thereof to the Depositary with written instructions to the Depositary to instruct us to cause conversion or exchange, as the case may be, of the preferred stock represented by the depositary shares evidenced by such depositary receipts into such number or amount of other securities, in authorized denominations, or other property, as the case may be, as specified in the related prospectus supplement. We, upon receipt of such instructions and any amounts payable in respect thereof, will cause the conversion or exchange, as the case may be, and will deliver to the holders (or cause the Depositary to deliver to the holders) such number or amount of other securities, in authorized denominations, or other property, as the case may be (and, if required by the terms of the applicable preferred stock, cash in lieu of any fractional share). Notwithstanding the foregoing, holders shall only be entitled to request the conversion or exchange of depositary shares representing one or more whole shares of the related preferred stock. The exchange or conversion rate per depositary share shall be equal to the exchange or conversion rate per share of preferred stock multiplied by the fraction of a preferred share represented by one depositary share. If the depositary shares evidenced by a depositary receipt are to be converted or exchanged in part only, a new depositary receipt or receipts will be issued for any depositary shares not to be converted or exchanged.

Amendment and Termination of Deposit Agreement

Unless otherwise provided in this prospectus, the applicable prospectus supplement or as required by law, the form of depositary receipt evidencing the depositary shares and any provision of the deposit agreement may at any time be amended by agreement between us and the Depositary. However, any amendment which materially and adversely alters the rights of the holders of the depositary receipts issued under any deposit agreement or the related depositary shares will not be effective unless such amendment has been approved by the holders of at least a majority of such depositary shares then outstanding (or such greater proportion as may be required by the rules of any securities exchange on which such depositary shares may be listed). In no event may any such amendment impair the right of any holder of depositary receipts, subject to the conditions specified in the deposit agreement, to receive the related preferred shares upon surrender of such depositary receipts as described above under “—Withdrawal of Preferred Stock.” Every holder of an outstanding depositary receipt at the time any such amendment becomes effective, or any transferee of such holder, shall be deemed, by continuing to hold such depositary receipt, or by reason of the acquisition thereof, to consent and agree to such amendment and to be bound by the deposit agreement as amended thereby.

The deposit agreement automatically terminates if:

- all outstanding depositary shares issued thereunder have been redeemed or repurchased by us;
- each preferred share deposited thereunder has been converted into or exchanged for other securities or other property or has been withdrawn; or
- there has been a final distribution in respect of the preferred shares deposited thereunder in connection with any liquidation, dissolution or winding up of us and such distribution has been distributed to the holders of related depositary receipts.

Charges of Depositary

We will pay all transfer and other taxes and governmental charges arising solely from the existence of the depositary arrangements. We will pay all fees and expenses of the Depositary in connection with the initial deposit of the preferred stock and any redemption of the preferred stock or arising in connection with the performance of its duties under the deposit agreement. Holders of depositary receipts will pay all other transfer and other taxes and governmental charges, including any fee for withdrawal of their shares of preferred stock upon surrender of depositary receipts, as are expressly provided in the deposit agreement to be for their accounts.

Resignation and Removal of Depositary

The Depositary may resign at any time by delivering to us notice of its election to do so, and we may at any time remove the Depositary. Any such resignation or removal will take effect upon the appointment by us of a successor Depositary and its acceptance of such appointment. The successor Depositary must be a bank, trust company or other financial institution selected by us having an office in the United States and otherwise meeting the requirements of the deposit agreement.

Miscellaneous

The Depositary will forward to the holders of the applicable depositary receipts all reports and communications from us which are delivered to the Depositary and which are intended for delivery to holders of the deposited preferred stock.

Neither the Depositary nor we will be liable if either of us is prevented or delayed by law or any circumstance beyond its control in performing its obligations under the deposit agreement. The obligations of us and the Depositary under the deposit agreement will be limited to performance of our respective duties thereunder in good faith and without gross negligence and willful misconduct and neither of us will be obligated to prosecute or defend any legal proceeding in respect of any depositary shares, depositary receipts or preferred stock unless satisfactory indemnity is furnished. We and any Depositary may rely upon written advice of counsel or accountants or upon information provided by holders of depositary receipts or other persons believed to be competent and on documents believed to be genuine.

DESCRIPTION OF STOCK PURCHASE CONTRACTS

We may offer stock purchase contracts either separately or together with other securities offered hereby. The following description of the stock purchase contracts provides certain general terms and provisions of the stock purchase contracts to which any prospectus supplement may relate. The applicable prospectus supplement will describe the specific terms of any stock purchase contracts and, if applicable, any prepaid securities (as defined below), the stock purchase contract and, if applicable, any related pledge or depositary agreement relating to any particular offering of stock purchase contracts. The form of stock purchase contract and, if applicable, the form of any related pledge or depositary agreement relating to any particular offering of stock purchase contracts will be filed with the SEC as an exhibit to the registration statement of which this prospectus is a part or a document that is incorporated or deemed to be incorporated by reference in this prospectus. This summary of some of the terms of the stock purchase contracts and the summary of some of the terms of the particular stock purchase contracts and, if applicable, any related pledge or depositary agreements contained in the applicable prospectus supplement are not complete and are subject to, and are qualified in their entirety by reference to, all of the provisions of the particular stock purchase contracts or stock purchase units, as the case may be, and any related pledge or depositary agreement, and you should read those documents for provisions that may be important to you.

Stock purchase contracts may include contracts obligating or entitling holders to purchase from us, and us to sell to holders, a specified number of shares of our common stock at a future date or dates. The consideration per share and the number of shares may be fixed at the time the stock purchase contracts are issued or may be determined by reference to a specific formula in the stock purchase contracts and may be subject to adjustment under anti-dilution or other formulas or provisions. We may issue the stock purchase contracts separately or as a part of stock purchase units consisting of a stock purchase contract and other securities that may be sold by us pursuant to this prospectus, debt obligations of third parties (including U.S. Treasury securities) or any combination of the foregoing, which may secure the holders' obligations to purchase the common shares under the stock purchase contracts. The stock purchase contracts may require us to make periodic payments to the holders of the stock purchase contracts or stock purchase units, as the case may be, or vice versa. These payments may be unsecured or prefunded on some basis. The stock purchase contracts may require holders to secure their obligations in a specified manner, and in certain circumstances, we may deliver newly issued prepaid stock purchase contracts, which are referred to as "prepaid securities," upon release to a holder of any collateral securing such holders' obligations under the original stock purchase contract.

DESCRIPTION OF WARRANTS

The following is a summary of the general terms of warrants we may issue (either separately or together with other securities) and that we may offer and sell. We may issue warrants to purchase common stock, preferred stock or debt securities or any combination of the foregoing. We may issue warrants independently or together with other securities. Warrants sold with other securities may be attached to or separate from the other securities. The warrants are to be issued under warrant agreements (“warrant agreements”) each to be entered into between us and a bank, trust company or other financial institution, as warrant agent, all as described in the prospectus supplement relating to the particular issuance of warrants. The particular terms of any warrants and the related warrant agreement as well as the identity of the warrant agent will be described in the applicable prospectus supplement. The form of warrant agreement, including the form of certificate representing the applicable warrants (“warrant certificate”) that will be entered into with respect to a particular offering of warrants will be filed with the SEC as an exhibit to the registration statement of which this prospectus is a part or a document that is incorporated or deemed to be incorporated by reference in this prospectus. This summary of some of the terms of the warrant agreements and warrants and the summary of some of the terms of the particular warrant agreement and warrants described in the applicable prospectus supplement are not complete and are subject to, and are qualified in their entirety by reference to, all the provisions of the particular warrant agreement and the related warrant certificate, and you should read those documents for provisions that may be important to you. To the extent that any particular terms of any warrants or the related warrant agreement described in a prospectus supplement differ from any of the terms described in this prospectus, then those particular terms described in this prospectus shall be deemed to have been superseded by that prospectus supplement.

General

The applicable prospectus supplement will include some or all of the following terms of the warrants to be offered:

- the title and aggregate number of the applicable warrants;
- the designation, number (or amount) and terms of shares of common stock, preferred stock or debt securities, as the case may be, that may be purchased upon exercise of each warrant and the procedures that will result in the adjustment of those numbers;
- the exercise price, or the manner of determining the price, at which the shares of common stock or preferred stock or the amount of debt securities, as the case may be, may be purchased upon exercise of each warrant;
- if other than cash, the property and manner in which the exercise price for the warrants may be paid;
- any minimum or maximum number of warrants that are exercisable at any one time;
- the dates or periods during which the warrants may be exercised;
- the terms of any mandatory or optional redemption provisions relating to the warrants;
- the terms of any right we have to accelerate the exercise of the warrants upon the occurrence of certain events;
- whether the warrants will be sold with any other securities, and the date, if any, on and after which those warrants and any other securities will be separately transferable; and
- any other terms of the warrants.

Exercise of Warrants

Each warrant will entitle the holder to purchase such number of shares of common stock or preferred stock or such amount of debt securities, as the case may be, at such exercise price as shall be set forth in, or shall be

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determinable as set forth in, the applicable prospectus supplement. Warrants may be exercised at the times and in the manner set forth in the applicable prospectus supplement. The applicable prospectus supplement will specify how the exercise price of any warrants is to be paid, which may include payment in cash or by surrender of other warrants issued under the same warrant agreement. Upon receipt of payment of the exercise price and, if required, the certificate representing the warrants being exercised properly completed and duly executed at the office or agency of the applicable warrant agent or at any other office or agency designated for that purpose, we will promptly deliver the securities to be delivered upon such exercise.

No Rights as Holders of Shares

Holders of common stock or preferred stock warrants will not be entitled, by virtue of being such holders, to vote, consent or receive notice as holders of our outstanding shares in respect of any meeting of holders of our shares for the election of our directors or any other matter, or to exercise any other rights whatsoever as holders of our shares, or to receive any dividends or distributions, if any, on our shares.

DESCRIPTION OF UNITS

We may issue units comprised of one or more of the other securities described in this prospectus in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The unit agreement under which a unit is issued may provide that the securities included in the unit may not be held or transferred separately, at any time or at any time before a specified date. The applicable prospectus supplement will describe:

- the designation and terms of the units and of the other securities comprising the units, including whether and under what circumstances those securities may be traded separately;
- the terms of the unit agreement governing the units;
- any provisions for the issuance, payment, settlement, transfer or exchange of the units or the securities comprising the units;
- the U.S. federal income tax considerations relevant to the units; and
- whether the units will be issued in fully registered global form.

This summary of certain general terms of units and any summary description of units in the applicable prospectus supplement do not purport to be complete and are qualified in their entirety by reference to all provisions of the applicable unit agreement and, if applicable, collateral arrangements and depository arrangements relating to such units. The forms of the unit agreements and other documents relating to a particular issue of units will be filed with the SEC as an exhibit to the registration statement of which this prospectus is a part or a document that is incorporated or deemed to be incorporated by reference in this prospectus each time we issue units, and you should read those documents for provisions that may be important to you.

PLAN OF DISTRIBUTION

We may sell the securities described in this prospectus from time to time in one or more transactions:

- directly to one or more purchasers;
- to underwriters for public offering and sale by them;
- through agents;
- through brokers or dealers; or
- through a combination of any of the foregoing methods of sale.

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 resale of the securities. Direct sales may be arranged by a securities broker-dealer or other financial intermediary. We will identify the specific plan of distribution, including any underwriters, brokers, dealers, agents or direct purchasers and their compensation in a prospectus supplement.

The distribution of the securities may be made from time to time in one or more transactions at a fixed price or prices, which may be changed, at market prices prevailing at the time of sale, at prices related to these prevailing market prices or at negotiated prices.

The applicable prospectus supplement will name any underwriter involved in a sale of securities. Underwriters may be deemed to have received compensation from us from sales of securities in the form of underwriting discounts or commissions and may also receive commissions from purchasers of securities for whom they may act as agent. Underwriters may be involved in any “at the market” offering of securities by or on our behalf.

Underwriters may sell securities to or through dealers, and such dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters and/or commissions (which may be changed from time to time) from the purchasers for whom they may act as agent.

Unless we state otherwise in the applicable prospectus supplement, the obligations of any underwriters to purchase securities will be subject to certain conditions precedent, and the underwriters will be obligated to purchase all the securities if any are purchased.

The applicable prospectus supplement will set forth whether or not underwriters may over-allot or effect transactions that stabilize, maintain or otherwise affect the market price of the securities at levels above those that might otherwise prevail in the open market, including, for example, by entering stabilizing bids, effecting syndicate covering transactions or imposing penalty bids.

If a dealer is utilized in the sale of the securities being offered pursuant to this prospectus, we will sell the securities to the dealer, as principal. The dealer may then resell the securities to the public at varying prices to be determined by the dealer at the time of resale.

Underwriters, dealers and agents participating in a sale of the securities may be deemed to be underwriters as defined in the Securities Act, and any discounts and commissions received by them and any profit realized by them on resale of the securities may be deemed to be underwriting discounts and commissions, under the Securities Act. We may have agreements with underwriters, dealers and agents to indemnify them against certain civil liabilities, including liabilities under the Securities Act, and to reimburse them for certain expenses.

LEGAL MATTERS

Unless otherwise indicated in the applicable prospectus supplement, the validity of the securities offered by this prospectus and any prospectus supplement will be passed upon for us by Simpson Thacher & Bartlett LLP, New York, New York, as to New York law, and Hunton & Williams LLP, Richmond, Virginia, as to Virginia law. Any underwriters will be advised about other issues relating to any offering by their own counsel.

EXPERTS

The consolidated financial statements of Owens & Minor, Inc. and its subsidiaries as of December 31, 2016 and 2015, and for each of the years in the three-year period ended December 31, 2016, and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2016 have been incorporated by reference in this prospectus and elsewhere in the registration statement in reliance upon the reports of KPMG LLP, independent registered public accounting firm, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 14. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION*

SEC registration fee	(1)
Accounting fees and expenses	(2)
Legal fees and expenses	(2)
Printing expenses	(2)
Trustee fees and expenses	(2)
Rating agency fees	(2)
Miscellaneous	(2)
Total	<u>(2)</u>

- (1) In accordance with Rules 456(b) and 457(r), payment of all of the registration fee is deferred.
- (2) An estimate of the aggregate amount of these expenses will be reflected in the applicable prospectus supplement.

ITEM 15. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Virginia Corporations

The Virginia Stock Corporation Act (the “VSCA”) establishes a statutory limit on liability of directors and officers of a Virginia corporation for damages assessed against it in a suit brought by or in the right of the corporation or brought by or on behalf of shareholders of the corporation and authorizes the corporation to specify a lower monetary limit on liability (including the elimination of liability) in its articles of incorporation or shareholder-approved bylaws; however, the liability of a director or an officer director shall not be limited if such director or officer engaged in willful misconduct or a knowing violation of the criminal law or of any federal or state securities law, including any unlawful insider trading or manipulation of the market for any security.

Under the VSCA, a Virginia corporation generally is authorized to indemnify its directors and officers in civil or criminal actions if they acted in good faith and believed their conduct to be in the best interests of the corporation and, in the case of criminal actions, had no reasonable cause to believe that the conduct was unlawful. The VSCA requires such indemnification when a director or an officer entirely prevails in the defense of any proceeding to which he or she was a party because he or she is or was a director or an officer of the corporation, and further provides that a Virginia corporation may make any other or further indemnity (including indemnity with respect to a proceeding by or in the right of the corporation), and may make additional provision for advances and reimbursement of expenses, if authorized by the corporation’s articles of incorporation or shareholder-approved bylaws, except an indemnity against willful misconduct or a knowing violation of criminal law.

The VSCA permits a corporation to purchase and maintain insurance on behalf of any director or officer against any liability asserted against, and incurred in his or her capacity as, a director or an officer, whether or not the corporation would have the power to indemnify the director or officer against this liability under Virginia law.

Owens & Minor, Inc. and Owens & Minor Distribution, Inc.

The Owens & Minor, Inc. amended and restated articles of incorporation and the Owens & Minor Distribution, Inc. articles of incorporation, as amended, each eliminate the liability of their respective directors and officers to the respective company or its shareholders for monetary damages with respect to any transaction,

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occurrence or course of conduct, except in the case of willful misconduct or a knowing violation of the criminal law or any federal or state securities law. Each company is required to indemnify its respective directors and officers in connection with any proceeding brought upon such director or officer by reason of having been a director or officer unless he or she engaged in willful misconduct or a knowing violation of the criminal law. In addition, each company's articles of incorporation requires each company, respectively, to pay for or reimburse the reasonable expenses incurred by a director or officer who is a party to a proceeding in advance of final disposition of the proceeding or a final determination as to the availability of indemnification if the director or officer furnishes to the respective company a written statement of his or her good faith belief that he or she has met the relevant standard of conduct and a written undertaking, executed personally or on his or her behalf, to repay the advance if it is ultimately determined that he or she did not meet such standard of conduct.

Each company carries insurance on behalf of its directors and officers.

Owens & Minor Medical, Inc. and O&M Halyard, Inc.

The Owens & Minor Medical, Inc. articles of incorporation, as amended, and the O&M Halyard, Inc. articles of incorporation are silent as to the indemnification of each respective company's directors and officers and, therefore, the default provisions of the VSCA apply. Additionally, each company carries insurance on behalf of its directors and officers.

Virginia Limited Liability Companies

The Virginia Limited Liability Company Act (the "VLLCA") provides that damages assessed against a manager or member of a Virginia limited liability company brought by or in the right of such limited liability company or brought by or on behalf of the members of such limited liability company, may not exceed the lesser of (1) the monetary amount, including the elimination of liability, specified in the articles of organization or operating agreement of the limited liability company or (2) the greater of \$100,000 or the amount of cash compensation received by the manager or member in the 12 months preceding the act or omission for which the liability was imposed, except for liability resulting from such person's having engaged in willful misconduct or a knowing violation of the criminal law.

Barista Acquisition I, LLC and Barista Acquisition II, LLC

The operating agreements for Barista Acquisition I, LLC and Barista Acquisition II, LLC limit the liability of each limited liability company's sole member and provide that the sole member of each limited liability company shall not have any liability to the respective limited liability company arising out of a transaction, occurrence or course of conduct unless he, she or it has engaged in willful misconduct or a knowing violation of criminal law or has knowingly exceeded the authority granted by or pursuant to each limited liability company's respective operating agreement. Each limited liability company is required to indemnify its member in connection with any proceeding brought upon such member by reason of having been a member unless he, she or it has engaged in willful misconduct or a knowing violation of criminal law or has knowingly exceeded the authority granted by or pursuant to each limited liability company's respective operating agreement. In addition, each limited liability company's operating agreement requires each limited liability company, respectively, to advance or reimburse the reasonable expenses incurred by a member who is a party to a proceeding upon request unless it has been determined that such member is not entitled to indemnification because of a failure to meet the relevant standard of conduct. Such advances or reimbursements shall be conditioned upon receipt by the respective limited liability company from the member a written undertaking to repay the advance if it is ultimately determined that the member did not meet the relevant standard of conduct.

Each company carries insurance on behalf of its respective member.

ITEM 16. EXHIBITS

See the Exhibit Index immediately preceding the signature pages hereto, which is incorporated by reference as if fully set forth herein.

ITEM 17. UNDERTAKINGS

(a) Each of the undersigned registrants hereby undertakes:

(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;

(ii) to reflect in the prospectus any acts or events arising after the effective date of this 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 this 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 Securities and Exchange Commission (the "SEC") pursuant to Rule 424(b) under the Securities Act if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement);

(iii) to include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement;

provided, however, that subparagraphs (i), (ii) and (iii) above do not apply if the information required to be included in a post-effective amendment by those subparagraphs is contained in reports filed with or furnished to the SEC by the registrant pursuant to Section 13 or Section 15(d) of the Exchange Act of 1934, as amended (the "Exchange Act"), that are incorporated by reference in this registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered herein, 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 the purpose of determining liability under the Securities Act 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 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 that 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; or

(5) That, for the purpose of determining liability of each of the registrants under the Securities Act to any purchaser in the initial distribution of the securities, in a primary offering of securities of the 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, each of the 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 registrant 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 each of the registrants or used or referred to by each of the registrants;

(iii) the portion of any other free writing prospectus relating to the offering containing material information about each of the registrants or its securities provided by or on behalf of the registrant; and

(iv) any other communication that is an offer in the offering made by the registrant to the purchaser.

(b) Each of the undersigned registrants hereby undertakes that, for the purpose of determining any liability under the Securities Act, each filing of the registrants' combined annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act that is incorporated by reference in this 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.

(c) The undersigned registrants hereby undertake to supplement the prospectus, after the expiration of the subscription period, to set forth the results of the subscription offer, the transactions by the underwriters during the subscription period, the amount of unsubscribed securities to be purchased by the underwriters, and the terms of any subsequent reoffering thereof. If any public offering by the underwriters is to be made on terms differing from those set forth on the cover page of the prospectus, a post-effective amendment will be filed to set forth the terms of such offering.

(d) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of each of the registrants, pursuant to the provisions described under Item 15 or otherwise, each of the registrants has been advised that in the opinion of the SEC such indemnification by it is against public policy as expressed in the Securities Act 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, each of 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 and will be governed by the final adjudication of such issue.

(e) Each of the undersigned registrants hereby undertakes 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 Trust Indenture Act.

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
1.1**	Form of Underwriting Agreement
4.1	Amended and Restated Articles of Incorporation of the Company (incorporated herein by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K (File No. 001-09810) dated July 29, 2008)
4.2	Amended and Restated Bylaws of the Company, as adopted on February 5, 2015 (incorporated herein by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K (File No. 001-09810) dated February 10, 2015)
4.3*	Form of Indenture for Debt Securities of Owens & Minor, Inc.
4.4*	Form of Debt Securities of Owens & Minor, Inc. (included in Exhibit 4.3 hereto)
4.5*	Form of Indenture for Debt Securities of O&M Halyard, Inc.
4.6*	Form of Debt Securities of O&M Halyard, Inc. (included in Exhibit 4.5 hereto)
4.7**	Certificate of Designations of Cumulative Preferred Stock
4.8**	Form of Deposit Agreement for Depositary Shares
4.9**	Form of Depositary Receipt (included in Exhibit 4.8 hereto)
4.10**	Form of Stock Purchase Contract Agreement
4.11**	Form of Stock Purchase Contract
4.12**	Form of Warrant Agreement
4.13**	Form of Warrant Certificate
4.14**	Form of Unit Agreement
4.15**	Form of Unit
5.1*	Opinion of Simpson Thacher & Bartlett LLP
5.2*	Opinion of Hunton & Williams LLP
12.1*	Computation of Ratios of Earnings to Fixed Charges, Combined Fixed Charges and Preferred Stock Dividends
23.1*	Consent of KPMG LLP
23.2*	Consent of Simpson Thacher & Bartlett LLP (included in Exhibit 5.1 hereto)
23.3*	Consent of Hunton & Williams LLP (included in Exhibit 5.2 hereto)
24.1*	Powers of Attorney (included on signature pages hereto)
25.1*	Statement of Eligibility and Qualification of Trustee on Form T-1 under the Trust Indenture Act of 1939, as amended, for Form of Indenture for Debt Securities of Owens & Minor, Inc.
25.2*	Statement of Eligibility and Qualification of Trustee on Form T-1 under the Trust Indenture Act of 1939, as amended, for Form of Indenture for Debt Securities of O&M Halyard, Inc.

* Filed herewith.

** To be filed by amendment or as an exhibit to a document to be incorporated by reference herein.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the undersigned Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the County of Hanover, Commonwealth of Virginia on the 12th day of December, 2017.

OWENS & MINOR, INC.

By: /s/ Paul C. Phipps
Paul C. Phipps
President, Chief Executive Officer and Chairman
of the Board of Directors

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each of the persons whose signatures appear below, hereby constitutes and appoints Paul C. Phipps, Richard A. Meier and Nicholas J. Pace, and each of them individually, as their true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for them and in their names, places and steads, in any and all capacities, in connection with this Registration Statement, including to sign in the name and on behalf of such persons any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as they might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his or her substitute or 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 below on the 12th day of December, 2017.

	<u>Signature</u>	<u>Title</u>
By:	<u>/s/ Paul C. Phipps</u> Paul C. Phipps	President, Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)
By:	<u>/s/ Richard A. Meier</u> Richard A. Meier	Executive Vice President, Chief Financial Officer and President, International (Principal Financial Officer)
By:	<u>/s/ Michael W. Lowry</u> Michael W. Lowry	Senior Vice President and Corporate Controller (Principal Accounting Officer)
By:	<u>/s/ Stuart M. Essig</u> Stuart M. Essig	Director
By:	<u>/s/ John W. Gerdelman</u> John W. Gerdelman	Director
By:	<u>/s/ Barbara B. Hill</u> Barbara B. Hill	Director

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	<u>Signature</u>	<u>Title</u>
By:	<u>/s/ Lemuel E. Lewis</u> Lemuel E. Lewis	Director
By:	<u>/s/ Martha H. Marsh</u> Martha H. Marsh	Director
By:	<u>/s/ Eddie N. Moore, Jr.</u> Eddie N. Moore, Jr.	Director
By:	<u>/s/ James E. Rogers</u> James E. Rogers	Director
By:	<u>/s/ David S. Simmons</u> David S. Simmons	Director
By:	<u>/s/ Robert C. Sledd</u> Robert C. Sledd	Director
By:	<u>/s/ Anne Marie Whittemore</u> Anne Marie Whittemore	Director

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the undersigned Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the County of Hanover, Commonwealth of Virginia on the 12th day of December, 2017.

OWENS & MINOR DISTRIBUTION, INC.

By: /s/ Paul C. Phipps
Paul C. Phipps
President, Chief Executive Officer and Chairman
of the Board of Directors

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each of the persons whose signatures appear below, hereby constitutes and appoints Paul C. Phipps, Richard A. Meier and Nicholas J. Pace, and each of them individually, as their true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for them and in their names, places and steads, in any and all capacities, in connection with this Registration Statement, including to sign in the name and on behalf of such persons any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as they might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his or her substitute or 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 below on the 12th day of December, 2017.

	<u>Signature</u>	<u>Title</u>
By:	<u>/s/ Paul C. Phipps</u> Paul C. Phipps	President, Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)
By:	<u>/s/ Richard A. Meier</u> Richard A. Meier	Executive Vice President, Chief Financial Officer, President, International and Director (Principal Financial Officer)
By:	<u>/s/ Michael W. Lowry</u> Michael W. Lowry	Senior Vice President and Corporate Controller (Principal Accounting Officer)
By:	<u>/s/ Nicholas J. Pace</u> Nicholas J. Pace	Senior Vice President, General Counsel, Corporate Secretary and Director

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the undersigned Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the County of Hanover, Commonwealth of Virginia on the 12th day of December, 2017.

OWENS & MINOR MEDICAL, INC.

By: /s/ Paul C. Phipps
Paul C. Phipps
President, Chief Executive Officer and Chairman
of the Board of Directors

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each of the persons whose signatures appear below, hereby constitutes and appoints Paul C. Phipps, Richard A. Meier and Nicholas J. Pace, and each of them individually, as their true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for them and in their names, places and steads, in any and all capacities, in connection with this Registration Statement, including to sign in the name and on behalf of such persons any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as they might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his or her substitute or 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 below on the 12th day of December, 2017.

	<u>Signature</u>	<u>Title</u>
By:	<u>/s/ Paul C. Phipps</u> Paul C. Phipps	President, Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)
By:	<u>/s/ Richard A. Meier</u> Richard A. Meier	Executive Vice President, Chief Financial Officer and Director (Principal Financial Officer and Principal Accounting Officer)
By:	<u>/s/ Nicholas J. Pace</u> Nicholas J. Pace	Senior Vice President, General Counsel, Corporate Secretary and Director

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the undersigned Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the County of Hanover, Commonwealth of Virginia on the 12th day of December, 2017.

BARISTA ACQUISITION I, LLC

By: Owens & Minor, Inc., its Sole Member

By: /s/ Paul C. Phipps
Paul C. Phipps
President, Chief Executive Officer and Chairman of the Board of Directors

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each of the persons whose signatures appear below, hereby constitutes and appoints Paul C. Phipps, Richard A. Meier and Nicholas J. Pace, and each of them individually, as their true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for them and in their names, places and steads, in any and all capacities, in connection with this Registration Statement, including to sign in the name and on behalf of such persons any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as they might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his or her substitute or 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 below on the 12th day of December, 2017.

	<u>Signature</u>	<u>Title</u>
By:	<u>/s/ Richard A. Meier</u> Richard A. Meier	President and Chief Financial Officer (Principal Executive Officer, Principal Financial Officer and Principal Accounting Officer)
By:	<u>/s/ Nicholas J. Pace</u> Nicholas J. Pace	Senior Vice President, General Counsel and Corporate Secretary

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the undersigned Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the County of Hanover, Commonwealth of Virginia on the 12th day of December, 2017.

BARISTA ACQUISITION II, LLC

By: Owens & Minor, Inc., its Sole Member

By: /s/ Paul C. Phipps
Paul C. Phipps
President, Chief Executive Officer and Chairman of the Board of Directors

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each of the persons whose signatures appear below, hereby constitutes and appoints Paul C. Phipps, Richard A. Meier and Nicholas J. Pace, and each of them individually, as their true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for them and in their names, places and steads, in any and all capacities, in connection with this Registration Statement, including to sign in the name and on behalf of such persons any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as they might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his or her substitute or 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 below on the 12th day of December, 2017.

	<u>Signature</u>	<u>Title</u>
By:	<u>/s/ Richard A. Meier</u> Richard A. Meier	President and Chief Financial Officer (Principal Executive Officer, Principal Financial Officer and Principal Accounting Officer)
By:	<u>/s/ Nicholas J. Pace</u> Nicholas J. Pace	Senior Vice President, General Counsel and Corporate Secretary

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the undersigned Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the County of Hanover, Commonwealth of Virginia on the 12th day of December, 2017.

O&M HALYARD, INC.

By: /s/ Paul C. Phipps
Paul C. Phipps
President, Chief Executive Officer and Chairman
of the Board of Directors

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each of the persons whose signatures appear below, hereby constitutes and appoints Paul C. Phipps, Richard A. Meier and Nicholas J. Pace, and each of them individually, as their true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for them and in their names, places and steads, in any and all capacities, in connection with this Registration Statement, including to sign in the name and on behalf of such persons any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as they might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his or her substitute or 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 below on the 12th day of December, 2017.

	<u>Signature</u>	<u>Title</u>
By:	<u>/s/ Paul C. Phipps</u> Paul C. Phipps	President, Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)
By:	<u>/s/ Richard A. Meier</u> Richard A. Meier	Executive Vice President, Chief Financial Officer and Director (Principal Financial Officer and Principal Accounting Officer)
By:	<u>/s/ Nicholas J. Pace</u> Nicholas J. Pace	Senior Vice President, General Counsel, Corporate Secretary and Director

OWENS & MINOR, INC.,

as Issuer,

THE GUARANTORS PARTY
HERE TO

and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

INDENTURE
DATED AS OF []

DEBT SECURITIES

CROSS REFERENCE TABLE (1)

CERTAIN SECTIONS OF THIS INDENTURE RELATING TO SECTIONS 310 THROUGH 318,
INCLUSIVE, OF THE TRUST INDENTURE ACT OF 1939, AS AMENDED:

<u>TIA Section</u>	<u>Indenture Section</u>
310(a)(1)	6.09
(a)(2)	6.09
(a)(3)	N.A. (2)
(a)(4)	N.A.
(a)(5)	6.09
(b)	6.08, 6.09, 6.10
311(a)	6.13
(b)	6.13
312(a)	7.01, 7.02
(b)	7.02
(c)	7.02
313(a)	7.03
(b)	7.03
(c)	1.07, 7.03
(d)	7.03
314(a)	1.03, 7.04, 10.04
(b)	N.A.
(c)(1)	1.03
(c)(2)	1.03
(c)(3)	N.A.
(d)	N.A.
(e)	1.03
(f)	N.A.
315(a)	6.01, 6.03
(b)	6.02
(c)	6.01
(d)	6.01
(e)	5.14
316(a) (last sentence)	1.01
(a)(1)(A)	5.12
(a)(1)(B)	5.13
(a)(2)	N.A.
(b)	5.08
(c)	1.05
317(a)(1)	5.03
(a)(2)	5.04
(b)	10.03
318	1.08

¹ This Cross Reference Table shall not, for any purpose, be deemed to be part of this Indenture.

² N.A. means “not applicable.”

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THIS INDENTURE, dated as of [], is among Owens & Minor, Inc., a Virginia corporation (the “Company”), the Guarantors (as hereafter defined) and U.S. Bank National Association, as trustee (the “Trustee”).

RECITALS

The Company and the Guarantors have duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of notes, debentures or other evidences of indebtedness (herein called a “Security” or the “Securities”) to be issued in one or more series as in this Indenture provided.

All things necessary to make this Indenture a legal, valid and binding agreement of the Company and the Guarantors, in accordance with its terms, have been done.

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually covenanted and agreed, for the equal and ratable benefit of all Holders of the Securities of any series thereof, as follows:

ARTICLE ONE

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

SECTION 1.01 RULES OF CONSTRUCTION.

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (1) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;
- (2) all other terms used herein which are defined in the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein;
- (3) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles in the United States as in effect from time to time and, except as otherwise herein expressly provided, the term “generally accepted accounting principles” with respect to any computation required or permitted hereunder shall mean such United States accounting principles as are generally accepted at the date of such computation;
- (4) “or” is not exclusive;
- (5) “including” means including, without limitation; and
- (6) the words “herein,” “hereof,” and “hereunder” and others of similar import refer to this Indenture as a whole and not to any particular Article, Section, or other subdivision.

SECTION 1.02 DEFINITIONS.

“Act,” when used with respect to any Holder, has the meaning specified in Section 1.05.

“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 the purposes of this definition, “control” when used with respect to any Person means 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” have meanings correlative to the foregoing; provided that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control.

“Authenticating Agent” means any Person authorized by the Trustee pursuant to Section 6.14 to act on behalf of the Trustee to authenticate Securities of one or more series.

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

“Board of Directors” means either the board of directors of the Company or any duly authorized committee of such board.

“Board Resolution” means a copy of one or more resolutions certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the 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, with respect to any Place of Payment or any other particular location referred to in this Indenture or in the Securities, each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York, the location of the Corporate Trust Office, the Place of Payment or other particular location referred to in this Indenture or in the Securities are authorized or obligated by law or executive order to close.

“Capital Stock” means (1) in the case of a corporation, corporate stock; (2) in the case of an association or business entity (other than a partnership or limited liability company), any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Cash” means such coin or currency of the United States as at any time of payment is legal tender for the payment of public and private debts.

“Commission” means the Securities and Exchange Commission, from time to time constituted, created under the Exchange Act, or, if any time after the execution of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

“Common Stock” means with respect to any Person, any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or nonvoting) of such Person’s common stock whether or not outstanding on the issue date of a series of Securities, and includes, without limitation, all series and classes of such common stock.

“Company” means the party named as the “Company” in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor.

“Company Request” or “Company Order” means a written request or order signed in the name of the Company by its Chairman of the Board, its Chief Executive Officer, its President, a Vice President or its Chief Financial Officer and by its Treasurer, its Secretary or an Assistant Secretary, and delivered to the Trustee.

“Corporate Trust Office” means the corporate trust office of the Trustee, which, at the time of the execution of this Indenture is located at [].

“Covenant Defeasance” has the meaning specified in Section 13.03.

“Credit Agreement” means the Credit Agreement, dated as of July 27, 2017, by and among Owens & Minor Distribution, Inc., Owens & Minor Medical, Inc., Barista Acquisition I, LLC and Barista Acquisition II, LLC (as U.S. borrowers), the Company and certain of its domestic subsidiaries as may become parties thereto from time to time (as guarantors), Wells Fargo Bank, N.A. (as administrative agent), Bank of America, N.A., JPMorgan Chase Bank, N.A. and SunTrust Bank (as co-syndication agents), and the other banks from time to time party thereto, as amended from time to time.

“Credit Facilities” means, one or more debt facilities, commercial paper facilities, or capital markets financings (whether or not registered with the Commission), in each case with banks, investment banks (acting as underwriters, placement agents or dealers), other institutional lenders or investors or trustees providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables), letters of credit, or capital markets financings, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

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

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

“Defaulted Interest” shall have the meaning set forth in Section 3.07.

“Defeasance” shall have the meaning specified in Section 13.02.

“Depository” means, with respect to the Securities of any series issuable or issued in whole or in part in the form of one or more Global Securities, DTC or another clearing agency registered under the Exchange Act that is designated to act as Depository for such Securities contemplated by Section 3.01 and if at any time there is more than one such person, “Depository” as used with respect to the Securities of any series shall mean the Depository with respect to the Securities of such series.

“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 debts.

“DTC” means The Depository Trust Company, its nominee and their respective successors and assigns.

“Event of Default” shall have the meaning set forth in Section 5.01.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

“Expiration Date” has the meaning specified in Section 1.05.

“GAAP” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession.

“Global Security” means a Security that evidences all or part of the Securities of any series that is executed by the Company and authenticated and delivered by the Trustee to a Depository or pursuant to such Depository’s instructions, all in accordance with this Indenture and that bears the legend set forth in Section 2.04 (or such legend as may be specified as contemplated by Section 3.01 for such series of Securities).

“Guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness or other obligation of any other Person; provided, however, that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business.

“Guaranteed Obligation” shall have the meaning specified in Section 14.01.

“Guarantor” means (a) each of the guarantors listed on the signature pages hereto and (b) any other Subsidiary that has outstanding, incurs or guarantees Specified Indebtedness; provided that upon the release or discharge of such Subsidiary from its Subsidiary Guarantee in accordance with the provisions of this Indenture, such Subsidiary shall cease to be a Guarantor.

“Holder” or “Securityholder” means a Person in whose name a Security is registered in the Security Register.

“Indebtedness” means all items classified as indebtedness on the most recently available balance sheet of the Company and its consolidated Subsidiaries, in accordance with GAAP.

“Indenture” means this Indenture, as amended or supplemented from time to time in accordance with the terms hereof, including, for all purposes of this instrument and any such supplemental indenture, the provisions of the Trust Indenture Act that are deemed to be a part of and govern this instrument and any such supplemental indenture, and shall include the terms of a particular series of Securities established as contemplated in Section 3.01.

“Interest,” when used with respect to an Original Issue Discount Security, which by its terms bears interest only after Maturity, means interest payable after Maturity.

“Interest Payment Date,” when used with respect to any Security, means the Stated Maturity of an installment of interest on such Security.

“Investment Company Act” means the Investment Company Act of 1940 and any statute successor thereto, in each case as amended from time to time.

“Issue Date” means the date the Securities are first issued under the Indenture.

“Legal Holiday” shall have the meaning set forth in Section 1.14.

“Maturity,” when used with respect to any Security, means the date on which the principal of such Security or an installment of principal or, in the case of an Original Issue Discount Security, the principal amount payable upon a declaration of acceleration pursuant to Section 5.02, becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

“Notice of Default” shall have the meaning set forth in Section 5.01.

“Officer” means the Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, the President, any Vice President, the Treasurer, the Secretary, or any Assistant Secretary of the Company.

“Officers’ Certificate” means a written certificate signed in the name of the Company by its Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, its President or a Vice President, and by its Treasurer, its Secretary or an Assistant Secretary, and delivered to the Trustee. One of the Officers signing an Officers’ Certificate given pursuant to Section 10.04 shall be the principal executive, financial or accounting officer of the Company.

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

“Original Issue Discount Security” means any Security which 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 5.02.

“Outstanding,” when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

- (1) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;
- (2) Securities or portions thereof for whose payment or redemption money in the necessary amount and in the required currency or currency unit has been theretofore deposited with the Trustee or any Paying Agent (other than the Company or any other obligor upon the Securities) in trust or set aside and segregated in trust by the Company or any other obligor upon the Securities (if the Company or any other obligor upon the Securities shall act as its own Paying Agent) for the Holders of such Securities; provided that, if such Securities or portions thereof are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;
- (3) Securities as to which Defeasance has been effected pursuant to Section 13.02; and
- (4) Securities which have been paid pursuant to Section 3.06 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company;

provided, however, that in determining whether the Holders of the requisite aggregate principal amount of the Outstanding Securities have given, made or taken any request, demand, authorization, direction, notice, consent, waiver or other action hereunder as of any date, (a) the principal amount of an Original Issue Discount Security which shall be deemed to be Outstanding shall be the amount of the principal thereof which would be due and payable as of such date upon acceleration of the Maturity thereof to such date pursuant to Section 5.02, (b) if, as of such date, the principal amount payable at the Stated Maturity of a Security is not determinable, the principal amount of such Security which shall be deemed to be Outstanding shall be the amount as specified or determined as contemplated by Section 3.01, (c) the principal amount of a Security denominated in one or more foreign currencies or currency units which shall be deemed to be Outstanding shall be the U.S. dollar equivalent, determined as of such date in the manner provided as contemplated by Section 3.01, of the principal amount of such Security, (or, in the case of a Security described in Clause (a) or (b) above, of the amount determined as provided in such Clause), and (d) Securities owned by the Company, any Guarantor or any other obligor upon the Securities or any Affiliate of the Company, any Guarantor or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, waiver or other action, only Securities which a Responsible Officer of the Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Company, any Guarantor or any other obligor upon the Securities or any Affiliate of the Company, any Guarantor or of such other obligor.

"Paying Agent" means any Person authorized by the Company to pay the principal of or any premium or interest on any Securities of any series on behalf of the Company.

"Periodic Offering" means an offering of Securities of a series from time to time, the specific terms of which Securities, including, without limitation, the rate or rates of interest, if any, thereon, the Stated Maturity or Maturities thereof, the original issue date or dates thereof, the redemption provisions, if any, and any other terms specified as contemplated by Section 3.01 with respect thereto, are to be determined by the Company, or one or more of the Company's agents designated in an Officers' Certificate, upon the issuance of such Securities.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, government or any agency or political subdivision thereof or any other entity.

"Place of Payment," when used with respect to the Securities of any series, means the place or places where, subject to the provisions of Section 10.02, the principal of and any interest or premium on the Securities of that series are payable as specified as contemplated by Section 3.01.

"Predecessor Security" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 3.06 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

"Preferred Stock" means, as applied to the Capital Stock of any corporation, Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such corporation, over shares of Capital Stock of any other class of such corporation.

“Redemption Date” or “redemption date,” when used with respect to any Security to be redeemed in whole or in part, shall mean the date specified for such redemption in accordance with the terms of such Security and this Indenture.

“Redemption Price” or “redemption price,” when used with respect to any Security to be redeemed in whole or in part, means the price at which it is to be redeemed pursuant to the terms of such Security and this Indenture.

“Regular Record Date” for the interest payable on any Interest Payment Date on the Securities of any series means the date, if any, specified for that purpose as contemplated by Section 3.01.

“Responsible Officer” means any corporate trust officer located at the Corporate Trust Office of the Trustee including any Vice President, Assistant Vice President, Treasurer, Assistant Treasurer or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer’s knowledge and familiarity with the particular subject and who is responsible for the administration of this Indenture.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

“Security” or “Securities” has the meaning stated in the first recital of this Indenture and more particularly means any Security authenticated and delivered under this Indenture.

“Securityholder” or “Holder” means a Person in whose name a Security is registered in the Security Register.

“Security Register” and “Security Registrar” have the respective meanings specified in Section 3.05.

“Significant Subsidiary” means (i) any Guarantor or (ii) any Subsidiary of the Company that would be a “Significant Subsidiary” of the Company within the meaning of Rule 1-02 under Regulation S-X promulgated by the Commission.

“Special Record Date” for the payment of any Defaulted Interest on the Securities means a date fixed by the Trustee pursuant to Section 3.07.

“Specified Indebtedness” means (i) any Indebtedness under the Credit Agreement and (ii) any Indebtedness incurred under Credit Facilities that refinance such Indebtedness.

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

“Subsidiary” means, with respect to any specified Person:

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

“Subsidiary Guarantee” means any Guarantee by a Guarantor of the Guaranteed Obligations pursuant to the provisions of this Indenture.

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

“Trustee” means the party named as the “Trustee” in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor. If there shall be at one time more than one Trustee hereunder, “Trustee” shall mean each such Trustee and shall apply to each such Trustee only with respect to those Securities with respect to which it is serving as Trustee.

“U.S. Government Obligation” has the meaning specified in Section 13.04.

“Vice President,” when used with respect to the Company or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title “vice president.”

“Voting Stock” of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote generally in the election of the board of directors of such Person.

SECTION 1.03 COMPLIANCE CERTIFICATES AND OPINIONS.

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee (1) such certificates and opinions as may be required under the Trust Indenture Act and (2) an Officers’ Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with, and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, provided for in this Indenture, relating to the proposed action have been complied with. Each certificate or opinion required under the Trust Indenture Act shall be given in the form of an Officers’ Certificate, if to be given by an officer of the Company, or an Opinion of Counsel, if to be given by counsel, and shall comply with the requirements of the Trust Indenture Act and any other requirements set forth in this Indenture.

Each Officers' Certificate or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture shall include:

- (1) a statement that each Person signing such Officers' Certificate or Opinion of Counsel has read such covenant or condition and the definitions herein relating thereto;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such Officers' Certificate or Opinion of Counsel are based;
- (3) a statement that, in the opinion of each such Person, he or she has made such examination or investigation as is necessary to enable such Person to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (4) a statement that, in the opinion of such Person, such covenant or condition has been complied with.

SECTION 1.04 FORM OF DOCUMENTS DELIVERED TO TRUSTEE.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon an Opinion of Counsel, or a certificate or representations by counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his or her certificate or opinion is based are erroneous. Any such certificate or Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters is erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

SECTION 1.05 ACTS OF HOLDERS; RECORD DATES.

Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 6.01) conclusive in favor of the Trustee and the Company and any agent of the Trustee and the Company, if made in the same manner provided in this Section.

The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him or her the execution thereof. Where such execution is by a signer acting in a capacity other than his or her individual capacity, such certificate or affidavit shall also constitute sufficient proof of his or her authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

The ownership of Securities shall be proved by the Security Register.

Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee, the Security Registrar, any Paying Agent or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

The Company may, as permitted by the Trust Indenture Act, set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders of Securities of such series, provided that the Company may not set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving or making of any notice, declaration, request or direction referred to in the next paragraph. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of the relevant series on such record date, and no other Holders, shall be entitled to take the relevant action, whether or not such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite aggregate principal amount of Outstanding Securities of such series on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite aggregate principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities of the relevant series in the manner set forth in Sections 1.06 and 1.07.

The Trustee may, but shall not be obligated to, set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to join in the giving and making of (a) any Notice of Default, (b) any declaration of acceleration referred to in Section 5.02, (c) any request to institute proceedings referred to in Section 5.07(2), (d) any direction referred to in Section 5.12 or (e) any waiver of past defaults referred to in Section 5.13, in each case with respect to Securities of such series. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of such series on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, whether or not such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable

Expiration Date by Holders of the requisite aggregate principal amount of Outstanding Securities of such series on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite aggregate principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Securities of the relevant series in the manner set forth in Sections 1.06 and 1.07.

With respect to any record date set pursuant to this Section, the party hereto which sets such record date may designate any day as the "Expiration Date" and from time to time may change the Expiration Date to any earlier or later day; provided that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each Holder of Securities of the relevant series in the manner set forth in Section 1.07, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section, the party hereto which set such record date shall be deemed to have initially designated the 90th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 90th day after the applicable record date.

Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

SECTION 1.06 NOTICES TO TRUSTEE AND COMPANY.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with:

(1) the Trustee by any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished, or filed in writing to or with the Trustee at its Corporate Trust Office, Attention: Corporate Trust Department, or if sent by facsimile transmission, to a facsimile number provided by the Trustee, with a copy mailed, first class postage prepaid to the Trustee addressed to it as provided above; and

(2) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to the Company addressed to it at the address of its principal office specified in the first paragraph of this instrument or at any other address previously furnished in writing to the Trustee by the Company, Attention: Chief Financial Officer, or if sent by facsimile transmission, to a facsimile number provided to the Trustee by the Company, with a copy mailed, first class postage prepaid, to the Company addressed to it as provided above.

The Company or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

SECTION 1.07 NOTICE TO HOLDERS; WAIVER.

Any notice or communication given to a Holder of Securities shall be mailed to such Securityholder at the Securityholder's address as it appears on the registration books of the Security Registrar and shall be sufficiently given if so mailed within the time prescribed for the giving of such notice.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not received by the addressee.

If the Company mails a notice or communication to the Holders of Securities of a particular series, it shall mail a copy to the Trustee and each Security Registrar, co-registrar or Paying Agent, as the case may be, with respect to such series.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give notice to Holders of Securities by mail, then such notification as shall be made with the acceptance of the Trustee shall constitute a sufficient notification for every purpose hereunder. In any case where notice to Holders of Securities is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder of a Security shall affect the sufficiency of such notice with respect to other Holders of Securities.

Where this Indenture provides for notice of any event to a Holder of a Global Security, such notice shall be sufficiently given if given to the Depository for such Security (or its designee), pursuant to its policies and procedures, not later than the latest date (if any), and not earlier than the earliest date (if any), prescribed for the giving of such notice.

SECTION 1.08 CONFLICT WITH TRUST INDENTURE ACT.

If any provision of this Indenture limits, qualifies or conflicts with a provision of the TIA which is required under the TIA to be a part of and govern this Indenture, the required provision shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act which may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or to be excluded, as the case may be.

SECTION 1.09 EFFECT OF HEADINGS AND TABLE OF CONTENTS.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

SECTION 1.10 SUCCESSORS AND ASSIGNS.

All covenants and agreements of the Company in this Indenture and the Securities shall bind its successors and assigns, whether so expressed or not. All agreements of the Trustee in this Indenture shall bind its successors and assigns, whether so expressed or not.

SECTION 1.11 SEPARABILITY CLAUSE.

In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 1.12 BENEFITS OF INDENTURE.

Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Authenticating Agent and any Security Registrar and their successors hereunder and the Holders of Securities, any benefits or any legal or equitable right, remedy or claim under this Indenture.

SECTION 1.13 GOVERNING LAW.

This Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 1.14 LEGAL HOLIDAYS.

A "Legal Holiday" is any day other than a Business Day. If any specified date (including an Interest Payment Date, Redemption Date or Stated Maturity of any Security, or a date for giving notice) is a Legal Holiday at any Place of Payment or place for giving notice, then (notwithstanding any other provision of this Indenture or of the Securities other than a provision in the Securities of any series which specifically states that such provision shall apply in lieu of this Section) payment of interest or principal or premium, if any, need not be made at such Place of Payment, or such other action need not be taken, on such date, but the payment or action shall be taken on the next succeeding day that is not a Legal Holiday at such Place of Payment or place for giving notice with the same force and effect as if made on the Interest Payment Date or Redemption Date, or at the Stated Maturity or such other date and to the extent applicable, no Original Issue Discount or interest, if any, shall accrue for the intervening period.

SECTION 1.15 NO RECOURSE AGAINST OTHERS.

No director, officer, employee, incorporator or shareholder of the Company or any Guarantor, as such, shall have any liability for any obligations of the Company under the Securities or this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Securities by accepting a Security waives and releases all such liability to the extent permitted by applicable law. The waiver and release are part of the consideration for issuance of the Securities.

ARTICLE TWO

SECURITY FORMS

SECTION 2.01 FORMS AND DATING.

The Securities of each series and the Trustee's certificate of authentication shall be in substantially such form (including global form) as set forth in this Article or in such other form as shall be established from time to time by or pursuant to a Board Resolution and set forth in an Officers' Certificate or in one or more indentures supplemental hereto, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with any law, with the rules of any securities exchange or as may, consistently herewith, be determined by the Officers executing such Securities, as evidenced by their execution of the Securities.

The definitive Securities shall be printed, lithographed or engraved or produced by any combination of these methods or may be produced in any other manner, all as determined by the Officers executing such Securities, as evidenced by their execution of such Securities.

SECTION 2.02 FORM OF FACE OF SECURITY

The Securities shall be in substantially the following form:

[if the security is a Global Security, insert the legend required by Section 2.04]

OWENS & MINOR, INC.
[insert title of security]

No. _____

CUSIP NO. _____

ISIN NO. _____

\$ _____

[, if the Security is a Global Security, insert —, as revised by the Schedule of Increases and Decreases in Global Security attached hereto]

Owens & Minor, Inc., a Virginia corporation (herein called the “Company,” which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to _____, or registered assigns, the principal sum of _____ Dollars [, if the Security is a Global Security, insert —, as revised by the Schedule of Increases and Decreases in Global Security attached hereto,] on _____ [if the Security is to bear interest prior to Maturity, insert — and to pay interest thereon from _____ or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semi-annually on _____ and _____ in each year, commencing _____, at the rate of _____ per annum, until the principal hereof is paid or made available for payment [if applicable, insert —, provided that any principal and premium, and any such installment of interest, which is overdue shall bear interest at the rate of _____ % per annum (to the extent that the payment of such interest shall be legally enforceable), from the dates such amounts are due until they are paid or made available for payment, and such interest shall be payable on demand]]. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The interest so payable, and punctually paid or duly provided for (except for Defaulted Interest), on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be the or _____ (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date even if Securities are cancelled, repurchased or redeemed after the Regular Record Date and on or before the Interest Payment Date. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities of this series not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture].

[If the Security is not to bear interest prior to Maturity, insert — The principal of this Security shall not bear interest except in the case of a Default in payment of principal upon acceleration, upon redemption or at Stated Maturity and in such case the overdue principal and any overdue premium shall bear interest at the rate of % per annum (to the extent that the payment of such interest shall be legally enforceable), from the dates such amounts are due until they are paid or made available for payment. Interest on any overdue principal or premium shall be payable on demand. [Any such interest on overdue principal or premium which is not paid on demand shall bear interest at the rate of % per annum (to the extent that the payment of such interest on interest shall be legally enforceable), from the date of such demand until the amount so demanded is paid or made available for payment. Interest on any overdue interest shall be payable on demand.]]

Payment of the principal of (and premium, if any) and interest on this Security will be made at the office or agency of the Company maintained for that purpose in , in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, against surrender of this Security in the case of any payment due at the Maturity of the principal hereof (other than any payment of interest that first becomes payable on a day other than an Interest Payment Date) [if applicable, insert — ; provided, however, that at the option of the Company payment of interest may be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register]. [, if the Security is a Global Security, insert — Payments in respect of Securities represented by a Global Security (including principal, premium, if any, and interest) will be made by the transfer of immediately available funds to the accounts specified by [DTC or — insert name of Depository designated pursuant to Section 3.01] or any successor depository.]

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

In Witness Whereof, the Company has caused this instrument to be duly executed.

Dated:

Owens & Minor, Inc.

By: _____

SECTION 2.03 FORM OF REVERSE OF SECURITY.

This Security is one of a duly authorized issue of securities of the Company (herein called the “Securities”), issued and to be issued in one or more series under an Indenture, dated as of , 20 (herein called the “Indenture”, which term shall have the meaning assigned to it in such instrument), among the Company, the Guarantors and U.S. Bank National Association, as Trustee (herein called the “Trustee”, which term includes any successor trustee under the Indenture), and reference is hereby made to the Indenture and all indentures supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Guarantors, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. This Security is one of the series designated on the face hereof [if applicable, insert — , limited in aggregate principal amount to \$].

[If applicable, insert — The Securities of this series are subject to redemption prior to the Stated Maturity upon not less than 15 nor more than 60 days' notice by mail, [if applicable, insert — (1) on _____ in any year commencing with the year _____ and ending with the year _____ through operation of the sinking fund for this series at a Redemption Price equal to 100% of the principal amount, and (2)] at any time [if applicable, insert — on or after _____, 20____], as a whole or in part, at the election of the Company, at the following Redemption Prices (expressed as percentages of the principal amount): If redeemed [if applicable, insert — on or before _____, _____, and if redeemed] during the 12-month period beginning _____ of the years indicated,

<u>YEAR</u>	<u>REDEMPTION PRICE</u>	<u>YEAR</u>	<u>REDEMPTION PRICE</u>
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and thereafter at a Redemption Price equal to _____ % of the principal amount, together in the case of any such redemption [if applicable, insert — (whether through operation of the sinking fund or otherwise)] with accrued and unpaid interest to the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Regular Record Dates referred to on the face hereof, all as provided in the Indenture].

[If applicable, insert — The Securities of this series are subject to redemption upon not less than 15 nor more than 60 days' notice by mail, (1) on _____ in any year commencing with the year _____ and ending with the year _____ through operation of the sinking fund for this series at the Redemption Prices for redemption through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below, and (2) at any time [if applicable, insert — on or after _____], as a whole or in part, at the election of the Company, at the Redemption Prices for redemption otherwise than through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below: If redeemed during the 12-month period beginning _____ of the years indicated,

<u>YEAR</u>	<u>REDEMPTION PRICE FOR REDEMPTION THROUGH OPERATION OF THE SINKING FUND</u>	<u>REDEMPTION PRICE FOR REDEMPTION OTHERWISE THAN THROUGH OPERATION OF THE SINKING FUND</u>
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and thereafter at a Redemption Price equal to _____ % of the principal amount, together in the case of any such redemption (whether through operation of the sinking fund or otherwise) with accrued interest to the Redemption Date but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Regular Record Dates referred to on the face hereof, all as provided in the Indenture.]

[If applicable, insert — Notwithstanding the foregoing, the Company may not, prior to _____, redeem any Securities of this series as contemplated by [if applicable, insert — Clause (2) of] the preceding paragraph as a part of, or in anticipation of, any refunding operation by the application, directly or indirectly, of moneys borrowed having an interest cost to the Company (calculated in accordance with generally accepted financial practice) of less than _____ % per annum].

[If applicable, insert — The sinking fund for this series provides for the redemption on in each year beginning with the year and ending with the year of [if applicable, insert — not less than \$ (“mandatory sinking fund”) and not more than] \$ aggregate principal amount of Securities of this series. Securities of this series acquired or redeemed by the Company otherwise than through [if applicable, insert — mandatory] sinking fund payments may be credited against subsequent [if applicable, insert — mandatory] sinking fund payments otherwise required to be made [if applicable, insert — , in the inverse order in which they become due].]

[If the Security is subject to redemption of any kind, insert — In the event of redemption of this Security in part only, a new Security or Securities of this series and of like tenor for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof.]

[If applicable, insert — The Indenture contains provisions for defeasance at any time of [the entire indebtedness of this Security] [or] [certain restrictive covenants and Events of Default with respect to this Security] [, in each case] upon compliance with certain conditions set forth in the Indenture.]

[If the Security is subordinate and junior in right of payment to other obligations of the Company, specify the terms of such subordination.]

[If the Security is secured, specify the terms of such security.]

[If the Security is convertible into Common Stock or Preferred Stock of the Company, specify the conversion features.]

[If the Security is not an Original Issue Discount Security, insert — If an Event of Default with respect to Securities of this series shall occur and be continuing, the principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.]

[If the Security is an Original Issue Discount Security, insert — If an Event of Default with respect to Securities of this series shall occur and be continuing, an amount of principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture. Such amount shall be equal to — insert formula for determining the amount. Upon payment (a) of the amount of principal so declared due and payable and (b) of interest on any overdue principal, premium and interest (in each case to the extent that the payment of such interest shall be legally enforceable), all of the Company’s obligations on the Securities of this series shall terminate.]

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification or waiver of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of more than 50% in aggregate principal amount of the Securities at the time Outstanding of each series to be affected. The Indenture also contains provisions permitting the Holders of more than 50% in aggregate principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance with certain provisions of the Indenture and certain past Defaults (other than with respect to nonpayment or in respect of a provision that cannot be amended without the written consent of each Holder affected) under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

[If the Security is an Original Issue Discount Security, — In determining whether the Holders of the requisite aggregate principal amount of the Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver under the Indenture or whether a quorum is present at a meeting of Holders of Securities, the principal amount of any Original Issue Discount Security that shall be deemed to be Outstanding shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon the acceleration of the Maturity thereof.]

As provided in and subject to the provisions of the Indenture, the Holder of this Security shall not have the right to institute any proceeding with respect to the Indenture or for the appointment of a receiver or trustee or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default with respect to the Securities of this series, the Holders of not less than 25% in aggregate principal amount of the Securities of this series at the time Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee satisfactory indemnity, and the Trustee shall not have received from the Holders of a majority in aggregate principal amount of Securities of this series at the time Outstanding a direction inconsistent with such request, and shall have failed to institute any such proceeding, for 60 days after receipt of such notice, request and offer of indemnity. The foregoing shall not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of principal hereof or any premium or interest hereon on or after the respective due dates expressed herein.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in any place where the principal of and any premium and interest on this Security are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or its attorney duly authorized in writing, and thereupon one or more new Securities of this series and of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities of this series are issuable only in registered form without coupons in denominations of \$ and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee shall treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

The Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of New York.

All terms used in this Security that are defined in the Indenture shall have the meanings assigned to them in the Indenture.

SECTION 2.04 FORM OF LEGEND FOR GLOBAL SECURITIES.

Every Global Security authenticated and delivered hereunder shall bear a legend in substantially the following form:

THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS SECURITY MAY NOT BE EXCHANGED OR TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY, EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

UNLESS THIS SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY SECURITY ISSUED IS REGISTERED IN THE NAME OF OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO OR TO SUCH OTHER ENTITY AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, , HAS AN INTEREST HEREIN.

SECTION 2.05 FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION.

Subject to Section 6.14, the Trustee's certificates of authentication shall be in substantially the following form:

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

U.S. Bank National Association, as Trustee

BY _____
Authorized Signatory

ARTICLE THREE

THE SECURITIES

SECTION 3.01 AMOUNT UNLIMITED; ISSUABLE IN SERIES

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

The Securities may be issued in one or more series. There shall be established, in or pursuant to a Board Resolution, and, subject to Section 3.03, set forth, or determined in the manner provided, in an Officers' Certificate, 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 Securities of any other series);
- (2) whether the Securities of the series will be senior or subordinated indebtedness and, if subordinated, the terms of such subordination;
- (3) whether and the extent to which the Securities of the series are guaranteed by any Guarantor;
- (4) whether and the extent to which the Securities of the series are secured and, if secured, a description of the collateral securing such Securities;
- (5) any limit upon the aggregate principal amount of the Securities of the series which 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 Sections 3.04, 3.05, 3.06, 9.06 or 11.07 and except for any Securities which, pursuant to Section 3.03, are deemed never to have been authenticated and delivered hereunder) and whether that series may be reopened for additional Securities of that series; in the event that such series of Securities may be reopened from time to time for issuance of additional Securities of such series, the terms thereof shall indicate whether any such additional Securities shall have the same terms as the prior Securities of such series or whether the Company may establish additional or different terms with respect to such additional Securities;
- (6) the Person to whom any interest on a Security of the series shall be payable, if other than the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest;
- (7) the date or dates on which the principal or installments of principal of any Securities of the series is payable or the method of determination thereof and any rights to extend such date or dates;
- (8) the rate or rates at which any Securities of the series shall bear interest, if any, or the method if any by which such rate or rates are to be determined, the date or dates from which any such interest shall accrue, the Interest Payment Dates on which any such interest shall be payable and the Regular Record Date for any such interest payable on any Interest Payment Date;

(9) the place or places where, subject to the provisions of Section 10.02, the principal of and any interest and premium on Securities of the series shall be payable, any Securities of the series may be surrendered for registration of transfer, Securities of the series may be surrendered for exchange and notices and demands to or upon the Company in respect of the Securities of the series and this Indenture may be served;

(10) the period or periods within which, or the method, if any, by which such period or periods are to be determined, the price or prices at which, or the method, if any, by which such price or prices are to be determined, 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, and if other than by a Company Order, the manner in which any election by the Company to redeem the Securities shall be evidenced;

(11) the obligation, if any, of the Company to redeem, repay or purchase Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof, the conditions, if any, giving rise to such obligation, and the period or periods within which, or the method, if any, by which such period or periods are to be determined, the price or prices at which or the method, if any, by which such price or prices are to be determined and the terms and conditions upon which Securities of the series shall be redeemed or purchased, in whole or in part, and any provisions for the remarketing of such Securities;

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

(13) if the amount of payments of principal of or any interest or premium on any Securities of the series is to be determined with reference to an index, formula or other method, the manner in which such amounts shall be determined and the calculation agent, if any, with respect thereto;

(14) if other than the currency of the United States of America, the currency, currencies, or currency units in which the principal of or any premium or interest on any Securities of the series shall be payable and the manner of determining the equivalent thereof in the currency of the United States of America for any purpose, including for purposes of the definition of "Outstanding" in Section 1.02;

(15) if the principal of or any premium or interest on any Securities of the series is to be payable, at the election of the Company or the Holder thereof, in one or more currencies or currency units other than that or those in which such Securities are stated to be payable, the currency, currencies or currency units in which the principal of or any premium or interest on such Securities as to which such election is made shall be payable, the periods within which and the terms and conditions upon which such election is to be made and the amount so payable (or the manner in which such amount shall be determined);

(16) if other than the entire principal amount thereof, the portion of the principal amount of any Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 5.02;

(17) if the principal amount payable at the Stated Maturity of any Securities of the series will not be determinable as of any one or more dates prior to the Stated Maturity, the amount which shall be deemed to be the principal amount of such Securities as of any such date for any purpose thereunder or hereunder, including the principal

amount thereof which shall be due and payable upon any Maturity other than the Stated Maturity or which shall be deemed to be Outstanding as of any date prior to the Stated Maturity (or, in any such case, the manner in which such amount deemed to be the principal amount shall be determined);

(18) if applicable, that the Securities of the series, in whole or any specified part, shall not be defeasible pursuant to Section 13.02 or Section 13.03 or both such Sections and, if other than by a Company Order, the manner in which any election by the Company to defease such Securities shall be evidenced;

(19) if applicable, that any Securities of the series shall be issuable in whole or in part in the form of one or more Global Securities and, in such case and if other than DTC, the respective Depositories for such Global Securities, the form of any legend or legends which shall be borne by any such Global Security in addition to or in lieu of that set forth in Section 2.04 and any circumstances in addition to or in lieu of those set forth in Section 3.05 in which any such Global Security may be exchanged in whole or in part for Securities registered, and any transfer of such Global Security in whole or in part may be registered, in the name or names of Persons other than the Depository or its nominee for such Global Security or a nominee thereof;

(20) any addition to or change in the Events of Default which applies to any Securities of the series and any change in the right of the Trustee or the requisite Holders of such Securities to declare the principal amount thereof due and payable pursuant to Section 5.02;

(21) if other than as defined in Section 1.02, the meaning of "Business Day" when used with respect to any Securities of the series;

(22) if the Securities of the series may be issued or delivered (whether upon original issuance or upon exchange of a temporary Security of such series or otherwise), or any installment of principal or of any interest is payable, only upon receipt of certain certificates or other documents or satisfaction of other conditions in addition to those specified in this Indenture, the form and terms of such certificates, documents or conditions;

(23) the terms of any right to convert, exercise or exchange Securities of the series into shares of Common Stock or Preferred Stock of the Company;

(24) the listing, if any, of the Securities of the series on any securities exchange;

(25) any addition to or change in the covenants set forth in Article Ten which applies to Securities of the series;

(26) the location where the Security Register will be maintained and the location of the office maintained in accordance with Section 10.02; and

(27) any other terms, covenants or features of the series (which terms, covenants and features shall not be inconsistent with the provisions of this Indenture or the requirements of the Trust Indenture Act, except as permitted by Section 9.02(6)).

All Securities of any one series shall be substantially identical except as to denomination and the rate or rates of interest, if any, and Stated Maturity, the date from which interest, if any, shall accrue and except as may otherwise be provided in or pursuant to such Board Resolution and set forth in an Officers' Certificate pursuant to this Section 3.01 or in any indenture supplemental hereto; provided, however, that a different CUSIP number shall be obtained for Securities of any one series that are not identical (except as to denomination). All Securities of any one series need not be issued at the same time, unless otherwise provided pursuant to Section 3.01.

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 shall be 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 setting forth the terms of the series. With respect to Securities of a series subject to a Periodic Offering, such Board Resolution or Officers' Certificate or supplemental indenture may provide general terms for Securities of such series and provide either that the specific terms of particular Securities of such series shall be specified in a Company Order or that such terms shall be determined by the Company, or one or more of the Company's agents designated in an Officers' Certificate, in accordance with other procedures specified in a Company Order as contemplated by the third paragraph of Section 3.03.

SECTION 3.02 DENOMINATIONS.

Unless otherwise provided in the applicable Officers' Certificate or supplemental indenture contemplated by Section 3.01, the Securities of each series shall be issuable only in registered form without coupons and only in such denominations as shall be specified as contemplated by Section 3.01. In the absence of any such specified denomination with respect to the Securities of any series, the Securities of such series shall be issuable in denominations of \$1,000 and any integral multiple thereof.

SECTION 3.03 EXECUTION, AUTHENTICATION, DELIVERY AND DATING.

The Securities shall be executed on behalf of the Company by its Chairman of the Board, its Chief Executive Officer, its President, one of its Vice Presidents, its Chief Financial Officer or its Treasurer. The signature of any such officer on the Securities may be manual or facsimile.

Securities bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

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 to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities; and the Trustee in accordance with such Company Order shall authenticate and deliver such Securities; provided, however, that, with respect to Securities of a series subject to a Periodic Offering, (1) such Company Order may be delivered by the Company to the Trustee prior to the delivery to the Trustee of such Securities for authentication and delivery, (2) the Trustee shall authenticate and deliver Securities of such series for original issue from time to time, in an aggregate principal amount not exceeding the aggregate principal amount established for such series, pursuant to a Company Order or pursuant to such procedures acceptable to the Trustee as may be specified from time to time by a Company Order and (3) the rate or rates of interest, if any, the Stated Maturity or Maturities, the original issue date or dates, the redemption provisions, if any, and any other terms of Securities of such series shall be determined by a Company Order or pursuant to such procedures.

If the forms or terms of the Securities of the series have been established in or pursuant to one or more Officers' Certificates as permitted by Sections 2.01 and 3.01, in authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive, and (subject to Section 6.01) shall be fully protected in relying upon, an Opinion of Counsel stating:

(1) that the form and terms of such Securities have been duly authorized by the Company and established in conformity with the provisions of this Indenture; and

(2) that such Securities when completed, authenticated and delivered by the Trustee in accordance with this Indenture and issued and delivered by the Company and paid for in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles;

provided, however, that, with respect to Securities of a series subject to a Periodic Offering, the Trustee shall be entitled to receive such Opinion of Counsel only once at or prior to the time of the first authentication of Securities of such series and that the Opinion of Counsel above may state:

(x) that the forms of such Securities have been, and the terms of such Securities (when established in accordance with such procedures as may be specified from time to time in a Company Order all as contemplated by and in accordance with a Board Resolution or an Officers' Certificate pursuant to Section 3.01, as the case may be) will have been, duly authorized by the Company and established in conformity with the provisions of this Indenture; and

(y) that such Securities when (i) executed by the Company, (ii) completed, authenticated and delivered by the Trustee in accordance with this Indenture, and (iii) issued and delivered by the Company and paid for in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company enforceable in accordance with their terms, subject to customary exceptions.

With respect to Securities of a series subject to a Periodic Offering, the Trustee may conclusively rely, as to the authorization by the Company of any of such Securities, the form and terms thereof and the legality, validity, binding effect and enforceability thereof, upon the Opinion of Counsel and other documents delivered pursuant to Sections 2.01 and 3.01 and this Section, as applicable, at or prior to the time of the first authentication of Securities of such series unless and until it has received written notification that such opinion or other documents have been superseded or revoked. In connection with the authentication and delivery of Securities of a series subject to a Periodic Offering, the Trustee shall be entitled to assume that the Company's instructions to authenticate and deliver such Securities do not violate any rules, regulations or orders of any governmental agency or commission having jurisdiction over the Company.

Notwithstanding the provisions of Section 3.01 and of the preceding paragraph, if all Securities of a series are subject to a Periodic Offering, it shall not be necessary to deliver the Board Resolution and Officers' Certificate otherwise required pursuant to Section 3.01 or the Company Order and Opinion of Counsel otherwise required pursuant to such preceding paragraph at or prior to the time of authentication of each Security of such series if such documents are delivered at or prior to the authentication of the first Security of such series to be issued.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein duly executed by the Trustee by manual signature of an authorized signatory, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

Each Depository designated for a Global Security in registered form must, at the time of its designation and at all times while it serves as Depository, be a clearing agency registered under the Exchange Act and any other applicable statute or regulation.

Notwithstanding the foregoing, if any Security shall have been duly authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustee for cancellation as provided in Section 3.09 together with a written statement (which need not comply with Section 1.03 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.

SECTION 3.04 TEMPORARY SECURITIES.

Pending the preparation of definitive Securities of any series, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed, photocopied or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities. Any such temporary Securities may be in global form, representing such of the Outstanding Securities of such series as shall be specified therein.

If temporary Securities of any series are issued, the Company will cause definitive Securities of that series to be prepared without unreasonable delay. After the preparation of definitive Securities of such series, the temporary Securities of such series shall be exchangeable for definitive Securities of such series upon surrender of the temporary Securities of such series at the office or agency of the Company in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series, the Company shall execute and (in accordance with a Company Order delivered at or prior to the authentication of the first definitive Security of such series) the Trustee shall authenticate and deliver in exchange therefor one or more definitive Securities of the same series, of any authorized denominations and of like tenor and aggregate principal amount. Until so exchanged, the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of such series and tenor.

Any temporary Global Security and any permanent Global Security shall, unless otherwise provided therein, be delivered to DTC or another Depository designated pursuant to Section 3.01.

SECTION 3.05 REGISTRATION; REGISTRATION OF TRANSFER AND EXCHANGE.

The Company shall cause to be kept at an office in New York City designated by the Trustee, a register (the register maintained in such office and in any other office or agency of the Company in a Place of Payment being herein sometimes collectively referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Securities and of transfers of Securities. The Trustee is hereby initially appointed "Security Registrar" for the purpose of registering Securities and transfers of Securities as herein provided. In the event that the Trustee shall cease to be the Security Registrar, it shall have the right to examine the Security Registrar at all reasonable times.

Upon surrender for registration of transfer of any Security at the office or agency of the Company designated pursuant to Section 10.02 for such purpose in a Place of Payment, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denomination or denominations of a like Stated Maturity and of a like series and aggregate principal amount and tenor.

At the option of the Holder, Securities of any series may be exchanged for other Securities of the same series, of any authorized denomination or denominations, of a like Stated Maturity and of a like series and aggregate principal amount and tenor, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee for such Securities shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 3.04, 9.06 or 11.07 not involving any transfer.

The Company may but shall not be required (a) to issue, register the transfer of or exchange Securities of any series (or of that series and specified tenor, as the case may be) during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Securities of that series selected for redemption under Section 11.03 and ending at the close of business on the day of such mailing, or (b) to register the transfer of or exchange any Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

The provisions of Clauses (1), (2), (3), (4) and (5) below shall apply only to Global Securities:

(1) Each Global Security authenticated under this Indenture shall be registered in the name of the Depository designated for such Global Security or a nominee thereof and delivered to such Depository or a nominee thereof or custodian therefor, and each such Global Security shall constitute a single Security for all purposes of this Indenture.

(2) Notwithstanding any other provision of this Section or Sections 3.03 and 3.04, unless and until it is exchanged in whole or in part for Securities in definitive form, a Global Security representing all or a portion of the Securities of a series may not be transferred except as a whole by the Depository for such series to a nominee of such Depository or by a nominee of such Depository to such Depository or another nominee of such Depository or by such Depository or any such nominee to a successor Depository for such series or a nominee of such successor Depository.

(3) Notwithstanding any other provision in this Indenture, no Global Security may be exchanged in whole or in part for Securities registered, and no transfer of a Global Security in whole or in part may be registered, in the name of any Person other than the Depository for such Global Security or a nominee thereof unless (a) such Depository has notified the Company that it is unwilling or unable to continue as Depository for such Global Security or has ceased to be a clearing agency registered under the Exchange Act and the Company has not appointed a successor within 90 days after such notification, (b) the Company executes and delivers to the Trustee a Company Order that such Global Security shall be so exchangeable, subject to such Depository's procedures, (c) there shall have occurred and be continuing an Event of Default with respect to such Global Security or (d) there shall exist such circumstances, if any, in addition to or in lieu of the foregoing as have been specified for this purpose as contemplated by Section 3.01.

(4) Subject to Clause (2) above, any exchange of a Global Security for other Securities may be made in whole or in part, and all Securities issued in exchange for a Global Security or any portion thereof shall be registered in such names as the Depository for such Global Security shall direct.

(5) Every Security authenticated and delivered upon registration of transfer of, or in exchange for or in lieu of, a Global Security or any portion thereof, whether pursuant to this Section, Section 3.04, 3.06, 9.06, or 11.07 or otherwise, shall be authenticated and delivered in the form of, and shall be, a Global Security, unless such Security is registered in the name of a Person other than the Depository for such Global Security or a nominee thereof.

SECTION 3.06 MUTILATED, DESTROYED, LOST AND STOLEN SECURITIES.

If (a) any mutilated Security is surrendered to the Trustee, or (b) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Security, and there is delivered to the Company and the Trustee such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide or protected purchaser, the Company shall execute and upon its written request the Trustee shall authenticate and deliver, in exchange for any such mutilated Security or in lieu of any such destroyed, lost or stolen Security, a new Security of the same series and of like tenor and principal amount and of a like Stated Maturity, bearing a number not contemporaneously Outstanding.

In case 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.

Upon the issuance of any new Securities under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security of any series issued pursuant to this Section in exchange for any mutilated Security or in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen Security shall be at any time enforceable by anyone, and any such new Security shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Securities of that series.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

SECTION 3.07 PAYMENT OF INTEREST; INTEREST RIGHTS PRESERVED.

Unless otherwise provided as contemplated by Section 3.01 with respect to any series of Securities, interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest payment.

Any interest on any Security of any series which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security of that series and the date of the proposed payment (which shall not be less than 20 days after such notice is received by the Trustee), and at the same time the Company shall deposit with the Trustee an amount of money in the currency or currency unit in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.01) for the Securities of such series equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Clause provided. Thereupon the Company shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Company shall promptly notify the Trustee of such Special Record Date

and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Securities of that series at his or her address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities of that series (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Interest on the Securities of any particular series in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section and Section 3.05, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

SECTION 3.08 PERSONS DEEMED OWNERS.

Prior to due presentment of a Security for registration of transfer, the Company, the Guarantors, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of, premium, if any, and (except as otherwise specified as contemplated by Section 3.01 and subject to Section 3.05 and Section 3.07) interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Guarantor, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

No holder of any beneficial interest in any Global Security held directly or indirectly on its behalf by a Depository (or its nominee) shall have any rights under this Indenture with respect to such Global Security or any Security represented thereby, and such Depository may be treated by the Company, the Guarantors, the Trustee, and any agent of the Company, the Guarantors or the Trustee as the owner of such Global Security or any Security represented thereby for all purposes whatsoever. None of the Company, the Guarantors, the Trustee, any Paying Agent or the Security Registrar will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests. Notwithstanding the foregoing, with respect to any Global Security, nothing herein shall prevent the Company, the Guarantors, the Trustee, or any agent of the Company, the Guarantors or the Trustee, from giving effect to any written certification, proxy or other authorization furnished by a Depository or impair, as between a Depository and such holders of beneficial interests in the Securities, the operation of customary practices governing the exercise of the rights of the Depository (or its nominees) as Holder of any Security.

SECTION 3.09 CANCELLATION.

All Securities surrendered for payment, redemption, registration of transfer or exchange, or for credit against any sinking fund payment, shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and all Securities so delivered shall be promptly canceled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever (including Securities received by the Company in exchange or payment for other Securities of the Company) and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Securities previously authenticated hereunder which the Company has not issued and sold, and all Securities so delivered to the Trustee shall be promptly canceled by the Trustee. The Company may not reissue, or issue new Securities to replace, Securities it has paid for or delivered to the Trustee for cancellation. No Securities shall be authenticated in lieu of or in exchange for any Securities canceled as provided in this Section, except as expressly permitted by this Indenture. All canceled Securities held by the Trustee shall be disposed of by the Trustee in accordance with its customary procedures and the Trustee shall deliver a certificate of such disposition to the Company upon receipt of a request therefor.

SECTION 3.10 COMPUTATION OF INTEREST.

Except as otherwise specified as contemplated by Section 3.01 for Securities of any series, interest on the Securities shall be computed on the basis of a 360-day year of twelve 30-day months.

SECTION 3.11 CUSIP AND ISIN NUMBERS.

The Company in issuing the Securities may use "CUSIP" or "ISIN" numbers or both numbers (if then generally in use), and, if so, the Trustee shall use such "CUSIP" or "ISIN" numbers or both numbers in notices of redemption as a convenience to Holders; 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 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, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee of any change in the "CUSIP" or "ISIN" numbers.

ARTICLE FOUR

SATISFACTION AND DISCHARGE

SECTION 4.01 SATISFACTION AND DISCHARGE OF INDENTURE.

This Indenture shall upon Company Request cease to be of further effect with respect to any series of Securities specified in such Company Request (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for), and the Trustee, upon receipt of a Company Order and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture as to such series, when:

(1) either

(a) all Securities of a series theretofore authenticated and delivered (other than (i) Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.06 and (ii) Securities of that series for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 10.03) have been delivered to the Trustee for cancellation; or

(b) all such Securities of that series not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

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

(iii) 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 the Company, in the case of (i), (ii) or (iii) above, has irrevocably deposited or caused to be irrevocably deposited with the Trustee, as trust funds in trust for the purpose, Cash, U.S. Government Obligations, or a combination thereof, in an amount sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on such Securities of that series not theretofore delivered to the Trustee for cancellation, for principal and any premium and interest to the date of such deposit (in the case of Securities of that series which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company relating to that series of Securities;

(3) no Default or Event of Default shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company is a party or by which the Company is bound;

(4) the Company has deposited irrevocable instructions to the Trustee to apply the deposited money toward the payment of such Securities of that series at Maturity or the Redemption Date, as the case may be; and

(5) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture with respect to such series of Securities have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Sections 6.07 and 13.05, the obligations of the Company to any Authenticating Agent under Section 6.14 and, if Cash, U.S. Government Obligations, or a combination thereof, shall have been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section, the obligations of the Trustee under Section 4.02 and the last paragraph of Section 10.03 shall survive.

SECTION 4.02 APPLICATION OF TRUST MONEY.

Subject to the provisions of the last paragraph of Section 10.03, all money deposited with the Trustee pursuant to Section 4.01 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the

Persons entitled thereto, of the principal and any premium and interest for whose payment such money has been deposited with, or received by, the Trustee, but such money need not be segregated from other funds except to the extent required by law.

ARTICLE FIVE

REMEDIES

SECTION 5.01 EVENTS OF DEFAULT.

“Event of Default,” wherever used herein with respect to Securities of any series, means any one of the following events and such other events as may be established with respect to the Securities of such series as contemplated by Section 3.01 (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (1) Default in the payment of any interest upon any Security of that series when it becomes due and payable, and continuance of such Default for a period of 30 days;
- (2) Default in the payment of principal of or any premium on any Security of that series at its Maturity;
- (3) Default in the deposit of any sinking fund payment, when and as due by the terms of a Security of that series, and continuance of such Default for a period of 30 days;
- (4) failure by the Company to comply with its obligations under Article Eight;
- (5) Default in the performance, or breach, of any covenant or warranty of the Company or any Guarantor in this Indenture or the Securities (other than a covenant or warranty whose performance or breach is elsewhere in this Section specifically dealt with or which has expressly been included in this Indenture solely for the benefit of Securities of other series), and continuance of such Default or breach for a period of 60 days after there has been given, by registered or certified mail, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Outstanding Securities of that series a written notice specifying such Default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder;
- (6) the Company or any Significant Subsidiary defaults under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Significant Subsidiaries (or the payment of which is guaranteed by the Company or any of its Significant Subsidiaries), other than Indebtedness owed to the Company or a Significant Subsidiary, whether such Indebtedness or Guarantee now exists, or is created after the date of this Indenture, which default:
 - (a) is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness prior to the expiration of any grace period provided in such Indebtedness (“payment default”); or

(b) results in the cross-acceleration of such Indebtedness prior to its maturity (the “cross acceleration provision”);

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, aggregates \$50,000,000 or more;

(7) the Company or a Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

- (a) commences a voluntary case or proceeding;
- (b) consents to the entry of a judgment, decree or order for relief against it in an involuntary case or proceeding;
- (c) consents to the appointment of a Custodian of it or for any substantial part of its property;
- (d) makes a general assignment for the benefit of its creditors;
- (e) consents to or acquiesces in the institution of a bankruptcy or an insolvency proceeding against it;
- (f) takes any corporate action to authorize or effect any of the foregoing; or
- (g) takes any comparable action under any foreign laws relating to insolvency; or

(8) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

- (a) is for relief in an involuntary case against the Company or a Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law;
- (b) appoints a Custodian for all or substantially all of the property of the Company or a Significant Subsidiary; or
- (c) orders the winding up or liquidation of the Company or a Significant Subsidiary; and in each case the order, decree or relief remains unstayed and in effect for 60 days;

(9) any Subsidiary Guarantee ceases to be in full force and effect (except as contemplated by the terms thereof) or any Guarantor or Person acting by or on behalf of such Guarantor denies or disaffirms its obligations under this Indenture or any Subsidiary Guarantee; or

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- (10) any other Event of Default provided with respect to Securities of that series.

SECTION 5.02 ACCELERATION OF MATURITY; RESCISSION AND ANNULMENT.

If an Event of Default with respect to Securities of any series at the time Outstanding (other than an Event of Default specified in Section 5.01(7) or 5.01(8)) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Outstanding Securities of that series by notice to the Company and the Trustee, may declare the principal amount of (or, if any of the Securities of that series are Original Issue Discount Securities, such portion of the principal amount of such Securities as may be specified in the terms thereof) all the Securities of that series to be immediately due and payable. Upon such a declaration, such principal (or portion thereof) together with accrued interest and all other amounts owing hereunder, shall be due and payable immediately. If an Event of Default specified in Section 5.01(7) or 5.01(8) occurs, the principal amount (or portion thereof) and accrued interest of all the Securities of each series then outstanding shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Securityholders.

At any time after such a declaration of acceleration with respect to Outstanding Securities has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article provided, the Holders of a majority in aggregate principal amount of the Outstanding Securities of that series, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if:

- (1) the Company has paid or deposited with the Trustee in the currency or currency unit in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.01 for the Securities of such series) a sum sufficient to pay:
 - (a) all overdue interest on all Securities,
 - (b) the principal of (and premium, if any, on) any Securities of that series which have become due otherwise than by such declaration of acceleration and any interest thereon at the rate or rates prescribed therefor in such Securities,
 - (c) to the extent that payment of such interest is lawful, interest upon overdue interest at the rate or rates prescribed therefor in such Securities, and
 - (d) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and
- (2) all Events of Default with respect to Securities of that series, other than the non-payment of the principal of Securities of that series which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 5.13.

No such rescission shall affect any subsequent Default or impair any right consequent thereon.

The Trustee shall have no obligations or liability for failure to act in connection with any Event of Default not actually known to a Responsible Officer.

SECTION 5.03 COLLECTION OF INDEBTEDNESS AND SUITS FOR ENFORCEMENT BY TRUSTEE.

The Company covenants that if:

- (1) Default is made in the payment of any interest on any Security when such interest becomes due and payable and such Default continues for a period of 30 days, or
- (2) Default is made in the payment of the principal of (or premium, if any, on) any Security at the Maturity thereof,

then the Company will, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and any premium and interest and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and premium and on any overdue interest, at the rate or rates prescribed therefor in such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses, disbursements and advances of the Trustee, its agents and counsel.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, and may prosecute such proceeding to judgment or final decree, and may enforce the same against the Company, or any other obligor upon such Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon such Securities, wherever situated.

If an Event of Default with respect to Securities of any series occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities of such series by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such right, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

SECTION 5.04 TRUSTEE MAY FILE PROOFS OF CLAIM.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relating to the Company, the Guarantors or any other obligor upon the Securities, or the property of the Company, the Guarantors or of such other obligor or their creditors, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise, to take any and all actions authorized under the Trust Indenture Act in order to have claims of the Holders and the Trustee allowed in any such proceeding. In particular, the Trustee shall be authorized to file and prove a claim for the whole amount, or such lesser amount as may be provided for in the Securities, of principal and premium, if any, and interest owing and unpaid in respect of the Securities and to file such other papers or documents as may be necessary or advisable in order 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 of the Holders allowed in such judicial proceeding; and to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee,

liquidator, sequestrator or other similar official 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 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 6.07.

No provision of this Indenture 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; provided, however, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee.

SECTION 5.05 TRUSTEE MAY ENFORCE CLAIMS WITHOUT POSSESSION OF SECURITIES.

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

SECTION 5.06 APPLICATION OF MONEY COLLECTED.

Any money collected by the Trustee pursuant to this Article with respect to the Securities shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or any premium or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

First: To the payment of all amounts due the Trustee under Section 6.07;

Second: To the payment of the amounts then due and unpaid for principal of or any premium and interest on the Securities in respect of which or for the benefit of which such money had been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal, and any premium and interest, respectively; and

Third: The balance, if any, to the Company.

SECTION 5.07 LIMITATION ON SUITS.

No Holder of any Security of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless

- (1) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities of that series;

- (2) the Holders of not less than 25% in aggregate principal amount of the Outstanding Securities of that series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;
- (3) such Holder or Holders have offered to the Trustee indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request;
- (4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in aggregate principal amount of the Outstanding Securities of that series;

it being understood and intended that no one or more of such Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other of such Holders, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all of such Holders of Securities of that series.

SECTION 5.08 RIGHTS OF HOLDERS TO RECEIVE PRINCIPAL, PREMIUM AND INTEREST.

Notwithstanding any other provision of this Indenture, the right, which is absolute and unconditional, of any Holder of any Security to receive payment of the principal of and (subject to Section 3.07) interest and premium, if any, on such Security on the Stated Maturity or Maturities expressed in such Security (or, in the case of redemption, on the Redemption Date) held by such Holder, on or after the respective due dates expressed in the Securities or any Redemption Date, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected adversely without the consent of each such Holder.

SECTION 5.09 RESTORATION OF RIGHTS AND REMEDIES.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

SECTION 5.10 RIGHTS AND REMEDIES CUMULATIVE.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 3.06, no right or remedy herein conferred upon or reserved to the Trustee or the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 5.11 DELAY OR OMISSION NOT WAIVER.

No delay or omission of the Trustee or of any Holder of any Securities to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 5.12 CONTROL BY HOLDERS.

The Holders of a majority in aggregate principal amount of the Outstanding Securities of any series shall have the right to 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, with respect to the Securities of such series, provided that:

- (1) such direction shall not be in conflict with any rule of law or with this Indenture or with the Securities;
- (2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; and
- (3) the Trustee need not take any action which might involve it in personal liability.

SECTION 5.13 WAIVER OF PAST DEFAULTS.

The Holders of not less than a majority in aggregate principal amount of the Outstanding Securities of all series that would be affected by such a default (all such series voting as a single class) may, on behalf of the Holders of all the Securities of such series, waive any past Default hereunder with respect to such series and its consequences, except a Default:

- (1) in the payment of the principal of or any premium or interest on any Security of such series, or
- (2) in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Security of such series 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 5.14 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 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 5.14 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 5.07 or 5.08 or a suit by Holders of more than 10% in aggregate principal amount of the Outstanding Securities of any series.

SECTION 5.15 STAY, EXTENSION AND USURY LAWS.

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

ARTICLE SIX

THE TRUSTEE

SECTION 6.01 CERTAIN DUTIES AND RESPONSIBILITIES.

The duties and responsibilities of the Trustee shall be as provided by this Indenture and the Trust Indenture Act.

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

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) 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; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture, but not to verify the contents thereof.

(b) In case an Event of Default with respect to the Securities of any series 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 its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

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- (1) this paragraph (c) shall not be construed to limit the effect of paragraph (a) of this Section;
 - (2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;
 - (3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Securities pursuant to Section 5.12 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Securities of that series; and
 - (4) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risk or liability is not reasonably assured to it.
- (d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee (when serving in such capacity or in the capacity of Paying Agent, Security Registrar, or any other capacity under this Indenture) shall be subject to the provisions of this Section.

SECTION 6.02 NOTICE OF DEFAULTS.

Within 90 days after the occurrence of any Default or Event of Default hereunder with respect to the Securities of any series, the Trustee shall transmit by mail to all Holders of Securities of such series, as their names and addresses appear in the Security Register, notice of such Default or Event of Default hereunder known to a Responsible Officer of the Trustee, unless such Default or Event of Default shall have been cured or waived; provided, however, that, except in the case of a Default or Event of Default in the payment of the principal of (or premium, if any) or interest on any Security of such series or in the payment of any sinking fund installment with respect to Securities of such series, the Trustee shall be protected in withholding such notice if and so long as the Board of Directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interest of the Holders of Securities of such series.

SECTION 6.03 CERTAIN RIGHTS OF TRUSTEE.

Subject to the provisions of Section 6.01:

- (1) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(2) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order or as otherwise expressly provided herein, and any resolution of the Board of Directors shall be sufficiently evidenced by a Board Resolution;

(3) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, conclusively rely upon an Officers' Certificate or an Opinion of Counsel;

(4) 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;

(5) 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 reasonably satisfactory to it against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(6) 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;

(7) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

(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 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;

(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 (when serving in such capacity or in the capacity of Paying Agent, Security Registrar or any other capacity under this Indenture), and each officer, director and employee of the Trustee and any agent, custodian and other Person employed by the Trustee to act hereunder;

(10) the Trustee may request that the Company deliver an Officers' Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded;

(11) the permissive right of the Trustee to take actions permitted by this Indenture shall not be construed as a duty or obligation; and

(12) the Trustee shall not be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Indenture.

SECTION 6.04 NOT RESPONSIBLE FOR RECITALS OR ISSUANCE OF SECURITIES.

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and neither the Trustee nor any Authenticating Agent assumes any responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities. Neither the Trustee nor any Authenticating Agent shall be accountable for the use or application by the Company of Securities or the proceeds thereof.

SECTION 6.05 MAY HOLD SECURITIES.

The Trustee, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Company, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 6.08 and 6.13, may otherwise deal with the Company with the same rights it would have if it were not such Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

SECTION 6.06 MONEY HELD IN TRUST.

Money held by the Trustee for any series of Securities in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company.

SECTION 6.07 COMPENSATION AND REIMBURSEMENT.

The Company agrees:

(1) to pay to the Trustee from time to time compensation for all services rendered by it hereunder as shall be agreed upon in writing by the Trustee and the Company (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust); and

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

The Company and the Guarantors shall indemnify, defend and hold the Trustee and any predecessor Trustee (and their officers, directors, employees and agents) harmless for and against, any and all loss, liability, damages, claim or expense, including taxes (other than taxes based upon, measured by or determined by the income of the Trustee), arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses of defending itself against any claim (whether asserted by the Company, the Guarantors, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder.

The Company need not reimburse any expense, disbursement or advance, and the Company and the Guarantors need not indemnify, defend or hold the Trustee or predecessor Trustee (or their officers, directors, employees or agents) harmless for and against any loss, liability, damages, claims or expenses incurred by the Trustee, to the extent such expense, disbursement, advance, loss, liability, damages, claims or expenses was proven to have been caused by the Trustee's negligence or bad faith.

The foregoing provisions shall be applicable to the Trustee when serving in its capacity as Trustee and when serving as Paying Agent, Security Registrar or in any other capacity under this Indenture.

The Trustee shall have a lien prior to the Securities as to all property and funds held by it hereunder for any amount owing it or any predecessor Trustee pursuant to this Section 6.07, except with respect to funds held in trust for the benefit of the Holders of particular Securities.

When the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 5.01(7) or 5.01(8), such expenses (including the reasonable fees and expenses of its counsel) and the compensation for such services are intended to constitute expenses of administration under any Bankruptcy Law.

This section shall survive the discharge of the Indenture and the resignation or removal of the Trustee.

SECTION 6.08 CONFLICTING INTERESTS.

If the Trustee has or shall acquire a conflicting interest within the meaning of Section 310(b) of the Trust Indenture Act, the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and this Indenture. To the extent permitted by such Act, the Trustee shall not be subject to disqualification if the Company has sustained the burden of proving, upon application to the Commission and after opportunity for hearing thereon, that the conflicting interest in question is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting hereunder.

SECTION 6.09 CORPORATE TRUSTEE REQUIRED; ELIGIBILITY.

There shall at all times be one (and only one) Trustee hereunder with respect to the Securities of each series, which may be Trustee hereunder for Securities of one or more other series. Each Trustee shall be a Person that is eligible pursuant to the Trust Indenture Act to act as such and has a combined capital and surplus of at least \$50,000,000. If any such Person files reports of condition at least annually, pursuant to law or to the requirements of its supervising or examining authority, then for the purposes of this Section and to the extent permitted by the Trust Indenture Act, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so filed. If at any time the Trustee with respect to the Securities of any series shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

SECTION 6.10 RESIGNATION AND REMOVAL; APPOINTMENT OF SUCCESSOR.

No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 6.11.

The Trustee may resign at any time with respect to the Securities of one or more series by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 6.11 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction at the expense of the Company for the appointment of a successor Trustee with respect to the Securities of such series.

The Trustee may be removed at any time with respect to the Securities of any series by Act of the Holders of a majority in aggregate principal amount of the Outstanding Securities of such series, delivered to the Trustee and to the Company.

If at any time:

- (1) the Trustee shall fail to comply with Section 6.08 after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Security for at least six months, or
- (2) the Trustee shall cease to be eligible under Section 6.09 and shall fail to resign after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Security for at least six months, or
- (3) the Trustee shall become incapable of acting or shall be adjudged bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (a) the Company by a Company Order may remove the Trustee with respect to all Securities or Securities of any series, or (b) subject to Section 5.14, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Securities of such series and the appointment of a successor Trustee or Trustees with respect thereto. If an instrument of acceptance by a successor Trustee required by Section 6.11 shall not have been delivered to the Trustee within 30 days after the giving of such notice of removal, the Trustee being removed may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, with respect to the Securities of one or more series, the Company, by a Company Order, 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) and shall comply with the

applicable requirements of Section 6.11. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Securities of any series shall have not been appointed by the Company pursuant to Section 6.10, then a successor Trustee may be appointed by Act of the Holders of a majority in aggregate principal amount of the Outstanding Securities of such series delivered to the Company and the retiring Trustee. If no successor Trustee with respect to the Securities of any series shall have been so appointed by the Company or the Holders and accepted appointment in the manner required by Section 6.11, any Holder who has been a bona fide Holder of a Security of such series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

The Company shall give notice of each resignation and each removal of the Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series to all Holders of Securities of such series in the manner provided in Section 1.07. Each notice shall include the name of the successor Trustee with respect to the Securities of such series and the address of its Corporate Trust Office.

SECTION 6.11 ACCEPTANCE OF APPOINTMENT BY SUCCESSOR.

In case of the appointment hereunder of a successor Trustee with respect to all Securities, every such successor Trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of all amounts due and owing to the retiring Trustee, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (a) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (b) if the retiring Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee and (c) 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, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that 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; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates; but, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, subject nonetheless to its liens, if any, provided for in Section 6.07.

Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in the first or second preceding paragraph, as the case may be.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

SECTION 6.12 MERGER, CONVERSION, CONSOLIDATION OR SUCCESSION TO BUSINESS.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee or the Authentication Agent for such series then in office, any successor by merger, conversion or consolidation to such authenticating Trustee or Authentication Agent, as the case may be, may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee or successor Authentication Agent had itself authenticated such Securities.

SECTION 6.13 PREFERENTIAL COLLECTION OF CLAIMS AGAINST COMPANY.

If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Securities), the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Company (or any such other obligor). A Trustee who has resigned or been removed shall be subject to Section 311(a) of the Trust Indenture Act to the extent provided therein.

SECTION 6.14 APPOINTMENT OF AUTHENTICATING AGENT.

At any time when any of the Securities of any series remain Outstanding, the Trustee, with the concurrence of the Company, may appoint an Authenticating Agent or Agents with respect to one or more series of Securities which shall be authorized to act on behalf of the Trustee to authenticate Securities of such series issued upon original issue, and upon exchange, registration of transfer or partial redemption thereof or pursuant to Section 3.06, and Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Indenture to the authentication and delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than \$50,000,000 and subject to supervision or examination by federal, state or District of Columbia authority. If such Authenticating Agent files reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the

combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so filed. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee for such series and to the Company. The Trustee for any series of Securities may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee for such series may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall give written notice of such appointment in the manner provided in Section 1.07 to all Holders of Securities of the series with respect to which such Authenticating Agent will serve. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Company agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section.

If an appointment with respect to one or more series is made pursuant to this Section, the Securities of such series may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

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

U.S. Bank National Association, as Trustee

By: _____
As Authenticating Agent

By: _____
Authorized Signatory

ARTICLE SEVEN

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

SECTION 7.01 COMPANY TO FURNISH TRUSTEE NAMES AND ADDRESSES OF HOLDERS.

If the Trustee is not acting as Security Registrar for the Securities of any series and to the extent otherwise required by the Trust Indenture Act, the Company will furnish or cause to be furnished to the Trustee in writing:

(1) at least five Business Days before each Interest Payment Date for each series of Securities (or, if there is no Interest Payment Date relating to a series of Securities, semi-annually, not later than January 15 and July 15 in each year), a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders of Securities of each series as of such dates, and

(2) 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 of similar form and content as of a date not more than 15 days prior to the time such list is furnished.

The Company shall otherwise comply with Section 312(a) of the Trust Indenture Act.

SECTION 7.02 PRESERVATION OF INFORMATION; COMMUNICATIONS TO HOLDERS.

The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 7.01 and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar, if so acting. The Trustee may destroy any list furnished to it as provided in Section 7.01 upon receipt of a new list so furnished.

The rights of Holders to communicate with other Holders with respect to their rights under this Indenture or under the Securities, and the corresponding rights and privileges of the Trustee, shall be as provided by the Trust Indenture Act.

Every Holder of Securities, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any agent of either of them shall be held accountable by reason of any disclosure of information as to the names and addresses of Holders made pursuant to the Trust Indenture Act.

SECTION 7.03 REPORTS BY TRUSTEE.

The Trustee shall transmit to Holders within 60 days of May 15 of each year such reports concerning the Trustee and its actions under this Indenture as may be required and in the manner specified in the Trust Indenture Act with respect to the 12-month period ending on May 15 of such year.

A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each stock exchange upon which any Securities are listed, with the Commission and with the Company. The Company will notify the Trustee when any Securities are listed on any stock exchange.

SECTION 7.04 REPORTS BY COMPANY.

The Company shall file with the Trustee and the Commission, and transmit to Holders, such information, documents and other reports, and such summaries thereof, as may be required pursuant

to the Trust Indenture Act at the times and in the manner provided pursuant to the Trust Indenture Act; provided that any such information, documents or reports required to be filed with the Commission pursuant to Section 13 or Section 15(d) of the Exchange Act shall be filed with the Trustee within 15 days after the same is filed with the Commission; or, if the Company is not required to file information, documents or reports pursuant to either of said Sections, then it will file with the Trustee and the Commission, in accordance with the rules and regulations prescribed from time to time by the Commission, such of the information, documents and other reports, and such summaries thereof, which may be required pursuant to Section 13 of the Exchange Act in respect of which a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations. The Company will be deemed to have furnished such reports to Holders of Securities if it has filed such reports with the Commission using the EDGAR (or successor) filing system and such reports are publicly available.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

ARTICLE EIGHT

CONSOLIDATION, MERGER AND SALE OF ASSETS

SECTION 8.01 COMPANY MAY CONSOLIDATE, ETC., ONLY ON CERTAIN TERMS.

The Company shall not merge or consolidate with or into another other Person and shall not sell, lease or convey, in a single transaction or in a series of transactions, all or substantially all of its assets to any Person, unless:

- (1) the surviving, continuing or successor Person (if other than the Company) or the Person that acquires all or substantially all of its assets (a) is an entity organized and existing under the laws of the United States or a State thereof or the District of Columbia, provided that if such entity is not a corporation, a co-obligor of the Securities is a corporation organized or existing under such laws, and (b) expressly and unconditionally assumes all of its obligations under the Securities and this Indenture or assumes such obligations as a matter of law;
- (2) immediately after giving effect to such merger, consolidation, sale, lease or conveyance, there is no Default or Event of Default under this Indenture; and
- (3) the Company delivers or causes to be delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such merger, consolidation, sale, lease or conveyance complies with this Indenture.

SECTION 8.02 SUCCESSOR SUBSTITUTED.

The successor Person formed by such consolidation or into which the Company is merged or the successor Person to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Indenture with the same effect as if such successor had been named as the Company herein; and thereafter, except in the case of a lease of all or substantially all of its properties and assets, the Company shall be discharged from all obligations and covenants under this Indenture and the Securities.

ARTICLE NINE

SUPPLEMENTAL INDENTURES

SECTION 9.01 SUPPLEMENTAL INDENTURES WITHOUT CONSENT OF HOLDERS.

Without the consent of any Holders, the Company, when authorized by or pursuant to a Board Resolution, and the Trustee, when requested by or pursuant to a Company Request, at any time and from time to time, may amend this Indenture or enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

- (1) to evidence the succession of another Person to the Company and the assumption by any such successor of the obligations of the Company herein and in the Securities; or
- (2) to add a Subsidiary as a Guarantor of the Securities; or
- (3) to add to the covenants of the Company and the Subsidiaries, as applicable, 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
- (4) to add any additional Events of Default for the benefit of the Holders of all or any series of Securities (and if such additional Events of Default are to be for the benefit of less than all series of Securities, stating that such additional Events of Default are expressly being included solely for the benefit of such series); or
- (5) to add to or change any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of Securities in bearer form, registrable or not registrable as to principal, and with or without interest coupons, or to permit or facilitate the issuance of Securities in uncertificated form; or
- (6) to add to, change or eliminate any of the provisions of this Indenture in respect of one or more series of Securities, provided that any such addition, change or elimination (a) shall neither (i) apply to any Security of any series created prior to the execution of such supplemental indenture and entitled to the benefit of such provision nor (ii) modify the rights of the Holder of any such Security with respect to such provision or (b) shall become effective only when there is no such Security Outstanding;
- (7) to secure the Securities;
- (8) to establish the form or terms of Securities of any series as permitted by Sections 2.01 and 3.01; or
- (9) 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 6.11; or

(10) to comply with any requirement of the Commission in connection with the qualification of this Indenture under the Trust Indenture Act; or

(11) to cure any ambiguity, to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Indenture, provided that such action pursuant to this Clause (11) shall not adversely affect the interests of the Holders of Securities of any series in any material respect; or

(12) to conform the text of this Indenture, the Subsidiary Guarantees or the Securities to any provision of a “Description of Debt Securities and Guarantees” or a “Description of Notes” in an applicable registration statement or the comparable provisions in the applicable prospectus supplement to the extent that such provision in a “Description of Debt Securities and Guarantees” or a “Description of Notes” in such applicable registration statement or such comparable provision in such prospectus supplement was intended to be a verbatim recitation of a provision of this Indenture, the Subsidiary Guarantees or the Securities.

After an amendment or supplement under this Section becomes effective, the Company shall mail to the Securityholders of the series affected thereby a notice briefly describing such amendment or supplement. The failure to give such notice to all Securityholders, or any defect therein, shall not impair or affect the validity of an amendment or supplement under this Section.

SECTION 9.02 SUPPLEMENTAL INDENTURES WITH CONSENT OF HOLDERS.

With the consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) of all series affected by such supplemental indenture (each series voting together as one class), by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution and the Trustee, when requested by a Company Request, may enter into an indenture or indentures supplemental hereto or amend this Indenture for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture and, subject to Section 5.13, any past default or compliance with any provisions of this Indenture with respect to a particular series of Securities may be waived with the written consent of the Holders of a majority in principal amount of the Outstanding Securities (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) of such series (all such series voting as a single class). However, no such supplemental indenture, amendment or waiver shall, without the consent of the Holder of each Outstanding Security affected thereby,

(1) change the Stated Maturity of the principal of, or any installment of principal of or interest on, any Security, or reduce the principal amount thereof or the rate of interest thereon or any premium payable upon the redemption thereof, or reduce the amount of the principal of an Original Issue Discount Security or any other Security which would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.02, or change any Place of Payment where, or the coin or currency in which, any Security or any premium or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption or repayment, on or after the Redemption Date or any repayment date); or

- (2) reduce the percentage in aggregate principal amount of the Outstanding Securities of any series, the consent of whose Holders is required for any such supplemental indenture or amendment, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain Defaults hereunder and their consequences) provided for in this Indenture; or
- (3) impair any right (if provided for in Section 3.01) of a Holder to exchange or convert Securities for or into other securities; or
- (4) change the relative seniority or ranking of the Security; or
- (5) release any Guarantor from any of its obligations under its Guarantee or this Indenture, except in accordance with Sections 5.13 or 14.03;
- (6) modify any of the provisions of this Section, Section 5.13 or Section 9.01, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby; provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to “the Trustee” and concomitant changes in this Section and Section 9.01, or the deletion of this proviso, in accordance with the requirements of Sections 6.11 and 9.01(9);
- (7) change any provision relating to subordination that adversely affects the rights of any Holder under such provisions; or
- (8) change any provision relating to the Security that adversely affects the rights of any Holder under such provisions.

A supplemental indenture that changes or eliminates any covenant or other provision of this Indenture that has expressly been included solely for the benefit of one or more particular series of Securities, or that 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.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed amendment, waiver or supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof. A consent to any amendment, supplement or waiver under this Indenture by any Holder of a particular series of Securities given in connection with a tender or exchange of such Holder’s Securities will not be rendered invalid by such tender or exchange.

After an amendment or supplement under this Section becomes effective, the Company shall mail to the Securityholders of the series affected thereby a notice briefly describing such amendment or supplement. The failure to give such notice to all Securityholders of any series, or any defect therein, shall not impair or affect the validity of an amendment or supplement under this Section.

SECTION 9.03 EXECUTION OF SUPPLEMENTAL INDENTURES.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Section 6.01) shall be fully protected in relying upon, an

Opinion of Counsel and Officers' Certificate stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties, privileges, protections, benefits or immunities under this Indenture or otherwise.

SECTION 9.04 EFFECT OF SUPPLEMENTAL INDENTURES.

Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

SECTION 9.05 CONFORMITY WITH TRUST INDENTURE ACT.

Every supplemental indenture executed pursuant to this Article shall conform to the requirements of the Trust Indenture Act.

SECTION 9.06 REFERENCE IN SECURITIES TO SUPPLEMENTAL INDENTURES.

Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article 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 supplemental indenture. If the Company shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Securities of such series.

SECTION 9.07 REVOCATION AND EFFECT OF CONSENTS AND WAIVERS.

A consent to an amendment, supplement or a waiver by a Holder of a Security shall bind the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent or waiver is not made on the Security. Any such Holder or subsequent Holder may revoke the consent or waiver as to such Holder's Security or portion of the Security if the Trustee receives a written notice of revocation before the date the amendment, supplement or waiver becomes effective or otherwise in accordance with any related solicitation documents. After an amendment, supplement or waiver becomes effective, it shall bind every Securityholder unless it makes a change described in any of clauses (1) through (8) of Section 9.02, in which case the amendment, supplement, waiver or other action shall bind each Securityholder who has consented to it and every subsequent Securityholder that evidences the same debt as the consenting Holder's Securities. An amendment, supplement or waiver shall become effective upon receipt by the Trustee of the requisite number of written consents under Section 9.02.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Securityholders entitled to give their consent or take any other action described in Section 9.02 above or required or permitted to be taken pursuant to this Indenture. If a record date is fixed, then notwithstanding the immediately preceding paragraph, those Persons who were Securityholders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. If the Trustee sets a record date for a vote or other action to be taken by Holders of the Securities, that vote or action may be taken only by persons who are holders of Outstanding Securities on the record date and the action voted upon must be effective within 90 days following the record date.

ARTICLE TEN

COVENANTS

SECTION 10.01 PAYMENT OF PRINCIPAL, PREMIUM AND INTEREST.

The Company covenants and agrees for the benefit of the Holders of each series of Securities that it will duly and punctually pay the principal of and any premium and interest on the Securities of that series in accordance with the terms of the Securities and this Indenture. In the absence of contrary provisions with respect to the Securities of any series, interest on the Securities of any series may, at the option of the Company, be paid by check mailed to the address of the Person entitled thereto as it appears on the Security Register; *provided, however*, that payments of interest will be made by wire transfer if a Holder of at least \$1,000,000 in principal amount of Securities has given wire transfer instructions to the Trustee at least five business days prior to the applicable Interest Payment Date. An installment of principal of or interest on the Securities shall be considered paid on the date it is due if the Trustee or a Paying Agent (other than the Company or an Affiliate of the Company) holds on that date immediately available funds designated for and sufficient to pay such installment. To the extent lawful, and if so provided for with respect to a particular series of Securities, the Company shall pay interest on overdue principal at the rate specified therefor in the Securities, and it shall pay interest on overdue installments of interest at the rate per annum borne by the applicable series of Securities.

SECTION 10.02 MAINTENANCE OF OFFICE OR AGENCY.

As long as any of the Securities of a series remain Outstanding, the Company will maintain in each Place of Payment for such series an office or agency where Securities of that series may be presented or surrendered for payment, where Securities of that series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. An office in New York City designated by the Trustee shall be such office or agency of the Company, unless the Company shall designate and maintain some additional office or agency for one or more of such purposes. If at any time the Company shall fail to maintain any such required office or agency in respect of any series of Securities or shall fail to furnish the Trustee with the address thereof, such presentations and surrenders of Securities of that series may be made and notices and demands may be made or served at the address of the Trustee set forth in Section 1.06, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

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 accordance with the requirements set forth above 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 10.03 MONEY FOR SECURITIES PAYMENTS TO BE HELD IN TRUST.

If the Company shall at any time act as its own Paying Agent with respect to any series of Securities, it will, on or before each due date of the principal of or any premium or interest on any of the Securities of that series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal and any premium and interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for any series of Securities, it will, prior to each due date of the principal of or any premium or interest on any Securities of that series, deposit with a Paying Agent a sum sufficient to pay such amount, such sum to be held as provided by the Trust Indenture Act, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee in writing of its action or failure so to act.

The Company will cause each Paying Agent for any series of Securities other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will (a) comply with the provisions of the Trust Indenture Act applicable to it as a Paying Agent and (b) during the continuance of any Default by the Company (or any other obligor upon the Securities of that series) in the making of any payment in respect of the Securities of that series, upon the written request of the Trustee, forthwith pay to the Trustee all sums held in trust by such Paying Agent for payment in respect of the Securities of that series.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of or any premium or interest on any Security of any series and remaining unclaimed for two years after such principal, premium or interest has become due and payable shall be paid to the Company upon receipt of a Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, if any such money represents the principal of, premium, if any, or interest payable with respect to Securities that are in bearer form or that are registered to bearer, the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in each Place of Payment, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 10.04 COMPLIANCE CERTIFICATE.

The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year of the Company ending after the date hereof, an Officers' Certificate, one of the signatures of which

shall be that of the Company's principal executive, financial or accounting officer, stating that in the course of the performance by the signers of their duties as Officers of the Company they would normally have knowledge of any Default or Event of Default and whether or not, to the best knowledge of the signers thereof, the Company is in Default in the performance and observance of any of the terms, provisions and conditions of this Indenture (without regard to any period of grace or requirement of notice provided hereunder) or there is an Event of Default and, if the Company shall be in Default or there is an Event of Default, specifying all such Defaults and Events of Default and the nature and status thereof.

SECTION 10.05 CORPORATE EXISTENCE.

Subject to Article Eight, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence in accordance with its organizational documents (as the same may be amended from time to time), rights (charter and statutory), licenses and franchises; *provided, however*, that the Company shall not be required to preserve any such right, license or franchise if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and each of its Subsidiaries, taken as a whole, and that the loss thereof is not, and will not be, disadvantageous in any material respect to the Holders.

SECTION 10.06 PAYMENT OF TAXES AND OTHER CLAIMS.

The Company will or will cause a Subsidiary to pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (a) all taxes, assessments and governmental charges levied or imposed upon the Company or any Subsidiary or upon the income, profits or property of the Company or any Subsidiary, and (b) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon the property of the Company or any Subsidiary; *provided, however*, that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which appropriate reserves, if necessary (in the good faith judgment of management of the Company), are being maintained in accordance with generally accepted accounting principles in the United States of America or if the Company shall determine that the failure to pay would not have a material adverse effect on the Company and its Subsidiaries taken as a whole.

SECTION 10.07 [Reserved].

SECTION 10.08 [Reserved].

SECTION 10.09 ADDITIONAL SUBSIDIARY GUARANTEES.

To the extent provided for in any series of Securities under this Indenture, each Subsidiary of the Company that incurs, has outstanding or Guarantees any Specified Indebtedness shall, simultaneously with such incurrence or guarantee (or, if the Subsidiary has outstanding or Guarantees Specified Indebtedness at the time of its creation or acquisition, at the time of such creation or acquisition), become a Guarantor and execute and deliver to the Trustee a supplemental indenture pursuant to which such Subsidiary shall agree to Guarantee the Company's obligations under the Securities on the terms set forth in Article Fourteen (except as otherwise specified as contemplated by Section 3.01 for such Securities).

ARTICLE ELEVEN

REDEMPTION OF SECURITIES

SECTION 11.01 APPLICABILITY OF ARTICLE.

Securities of any series which are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 3.01 for such Securities) in accordance with this Article.

SECTION 11.02 ELECTION TO REDEEM; NOTICE TO TRUSTEE.

The election of the Company to redeem any Securities shall be pursuant to a Board Resolution and evidenced by a Company Order. In case of any redemption at the election of the Company of less than all of the Securities of any series (including any such redemption affecting only a single Security), the Company shall, at least 45 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date, of the principal amount of Securities of such series to be redeemed and, if applicable, of the tenor of the Securities to be redeemed. In the case of any redemption of Securities prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, the Company shall furnish the Trustee with an Officers' Certificate evidencing compliance with such restriction.

SECTION 11.03 SELECTION BY TRUSTEE OF SECURITIES TO BE REDEEMED.

If less than all the Securities of any series are to be redeemed (unless all the Securities of such series and of a specified tenor are to be redeemed or unless such redemption affects only a single Security), 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 not previously called for redemption, in compliance with the requirements of the principal national securities exchange, if any, on which such Securities are listed, or, if such Securities are not so listed, pro rata or by lot or by such other method as the Trustee in its sole discretion shall deem fair and appropriate (and in such manner as complies with applicable legal requirements) and which may provide for the selection for redemption of a portion of the principal amount of any Security of such series, provided that the unredeemed portion of the principal amount of any Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security. If less than all the Securities of such series and of a specified tenor are to be redeemed (unless such redemption affects only a single Security), 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 specified tenor not previously called for redemption in accordance with the preceding sentence. The selection, by the Trustee, of the Securities to be redeemed shall be conclusive and binding and the Trustee shall incur no liability in connection with such selection.

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

The provisions of the two preceding paragraphs shall not apply with respect to any redemption affecting only a single Security, whether such Security is to be redeemed in whole or in part. In the case of any such redemption in part, the unredeemed portion of the principal amount of the Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security.

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

Notwithstanding anything else contained in this Section 11.03, the selection of Securities, or portions thereof, that are represented by a Global Security or that are held by or on behalf of a Depository, in the case of any partial redemption, shall also be made in accordance with the applicable rules and procedures of such Depository and neither the Trustee nor the Company shall have any liability or responsibility with respect thereto.

SECTION 11.04 NOTICE OF REDEMPTION.

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than 15 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed, at the Holder's address appearing in the Security Register, but failure to give such notice in the manner herein provided to the Holder of any Security designated for redemption as a whole or in part, or any defect in the notice to any such Holder, shall not affect the validity of the proceedings for the redemption of any other such Security or portion thereof.

Any notice that is mailed to the Holders of Securities in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Holder receives the notice.

All notices of redemption shall identify the Securities being redeemed (including the CUSIP or ISIN number) and state:

- (1) the Redemption Date,
- (2) the Redemption Price (or the method of calculation thereof if the price is not determinable as of the date of the notice of redemption),
- (3) if less than all the Outstanding Securities of any series consisting of more than a single Security are to be redeemed, the identification (and, in the case of partial redemption of any such Securities, the principal amounts) of the particular Securities to be redeemed and, if less than all Outstanding Securities of any series consisting of a single Security are to be redeemed, the principal amount of the particular Security to be redeemed,
- (4) that on the Redemption Date the Redemption Price will become due and payable upon each such Security to be redeemed and, if applicable, that interest thereon will cease to accrue on and after said date,
- (5) the place or places where each such Security is to be surrendered for payment of the Redemption Price and accrued interest, if any,
- (6) that the redemption is for a sinking fund, if such is the case,
- (7) the name and address of the Paying Agent,
- (8) that Securities called for redemption must be surrendered to the Paying Agent to collect the redemption price, and

(9) that no representation is made as to the accuracy or correctness of the CUSIP and/or ISIN numbers listed in such notice or printed on the Securities.

In addition, unless otherwise specified in accordance with Section 3.01, such notice may state that (1) the redemption will be conditional upon the Trustee or the Paying Agent receiving sufficient funds to pay the principal, premium, if any, and interest on the Securities subject to redemption on the Redemption Date and (2) if the Trustee or the Paying Agent does not receive those funds, the redemption notice will not apply, and the Company will not be required to redeem the Securities subject to redemption.

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 request, by the Trustee in the name and at the expense of the Company and shall be irrevocable.

SECTION 11.05 DEPOSIT OF REDEMPTION PRICE.

On or prior to 10:00 a.m., New York City time, on any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 10.03) an amount of money sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on, all the Securities which are to be redeemed on that date, other than Securities or portions of Securities called for redemption that are beneficially owned by the Company and have been delivered by the Company to the Trustee for cancellation.

SECTION 11.06 SECURITIES PAYABLE ON REDEMPTION DATE.

Notice of redemption having been given as aforesaid, the Securities or portions of Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified (together with accrued interest, if any, to but not including the Redemption Date), and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Securities shall cease to bear interest and the only right of the Holders thereof will be to receive payment of the redemption price and, subject to the next sentence, unpaid interest on such Securities to the Redemption Date. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price, together with accrued interest to the Redemption Date; *provided, however*, that, unless otherwise specified as contemplated by Section 3.01, installments of interest whose Stated Maturity is on or prior to the Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 3.07.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal and any premium shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

SECTION 11.07 SECURITIES REDEEMED IN PART.

Any Security which is to be redeemed only in part shall be surrendered at a Place of Payment therefor (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or the Holder's attorney duly authorized in writing), and the Company shall execute, 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 like tenor, 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; *provided, however*, that if a Global Security is so surrendered, such new Security so issued shall be a new Global Security in a denomination equal to the unredeemed portion of the principal of the Global Security so surrendered.

ARTICLE TWELVE

SINKING FUNDS

SECTION 12.01 APPLICABILITY OF ARTICLE.

The provisions of this Article shall be applicable to any sinking fund for the retirement of Securities of a series, except as otherwise specified as contemplated by Section 3.01 for Securities of such series.

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.” If provided for 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 12.02. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of the Securities of such series.

SECTION 12.02 SATISFACTION OF SINKING FUND PAYMENTS WITH SECURITIES.

The Company (a) may deliver Outstanding Securities of a series with the same issue date, interest rate and Stated Maturity (other than any previously called for redemption), and (b) may apply as a credit Securities of a series with the same issue date, interest rate and Stated Maturity which 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 mandatory sinking fund payment with respect to the Securities of such series with the same issue date, interest rate and Stated Maturity; 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 12.03 REDEMPTION OF SECURITIES FOR SINKING FUND.

Not less than 35 days (or such shorter period as shall be acceptable to the Trustee) prior 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 delivering and crediting Securities of that series pursuant to Section 12.02 and will also deliver to the Trustee any Securities to be so delivered. Not less than 30 days before each such sinking fund payment date, the Securities to be redeemed upon such sinking fund payment date shall be selected in the manner specified in Section 11.03 and the Trustee shall 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 11.04. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 11.06 and 11.07.

ARTICLE THIRTEEN

DEFEASANCE AND COVENANT DEFEASANCE

SECTION 13.01 COMPANY'S RIGHT WITH RESPECT TO DEFEASANCE OR COVENANT DEFEASANCE.

The Company will have the right, at any time, to have Section 13.02 or Section 13.03 applied to any Securities or any series of Securities, as the case may be (other than Securities of a series designated pursuant to Section 3.01 as not being defeasible pursuant to Section 13.02 or 13.03), upon compliance with the conditions set forth below in this Article. Any request under this Article shall be evidenced by a Company Order or in another manner specified as contemplated by Section 3.01 for such Securities.

SECTION 13.02 DEFEASANCE AND DISCHARGE.

Upon the Company's exercise of its right to have this Section applied to any Securities or any series of Securities, as the case may be, the Company and the Guarantors shall be deemed to have been discharged from its obligations with respect to such Securities and the Subsidiary Guarantees, respectively, as provided in this Section on and after the date the conditions set forth in Section 13.04 are satisfied (hereinafter called "Defeasance"). For this purpose, such Defeasance means that the Company and the Guarantors shall be deemed to have paid and discharged the entire indebtedness represented by such Securities and the Subsidiary Guarantees, respectively, which shall thereafter be deemed to be "Outstanding" only for the purposes of Section 13.05 and the other sections of this Indenture referred to in clauses (a) and (b) below, and to have satisfied all its other obligations under such Securities, the Subsidiary Guarantees and this Indenture insofar as such Securities and the Subsidiary Guarantees are concerned (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), subject to the following which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of such Securities to receive, solely from the trust fund described in Section 13.04 and as more fully set forth in such Section, (i) payments in respect of the principal of and any premium and interest on the Outstanding Securities on the Stated Maturity of such principal or installment of principal of and any premium or interest and (ii) the benefit of any mandatory sinking fund payments applicable to the Securities on the day on which such payments are due and payable in accordance with the terms of this Indenture and the Securities of such series; (b) the Company's obligations with respect to such Securities under Sections 3.04, 3.05, 3.06, 10.02 and 10.03; (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder including the duty of the Trustee to authenticate Securities of such series issued on registration of transfer or exchange and the Company's obligation in connection therewith; and (d) this Article. Subject to compliance with this Article, the Company may exercise its option to have this Section applied to any Securities and any Subsidiary Guarantees notwithstanding the prior exercise of its option to have Section 13.03 applied to such securities.

SECTION 13.03 COVENANT DEFEASANCE.

Upon the Company's exercise of its right to have this Section applied to any Securities or any series of Securities, as the case may be, and any Subsidiary Guarantees (a) the Company shall be released from its obligations under any covenants provided pursuant to Section 9.01(3) for the benefit of the Holders of such Securities and (b) the occurrence of any event specified in Sections 5.01(3), 5.01(4), 5.01(5) (with respect to any such covenants provided pursuant to Section 9.01(3)), 5.01(6), 5.01(9) and 5.01(10) shall be deemed not to be or result in an Event of Default, in each case with respect to such Securities as provided in this Section on and after the date the conditions set forth in Section 13.04 are

satisfied (hereinafter called “Covenant Defeasance”). For this purpose, such Covenant Defeasance means that, with respect to such Securities, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such specified Section (to the extent so specified in the case of Section 5.01(5)), whether directly or indirectly by reason of any reference elsewhere herein to any such Section or by reason of any reference in any such Section to any other provision herein or in any other document, but the remainder of this Indenture and such Securities shall be unaffected thereby.

SECTION 13.04 CONDITIONS TO DEFEASANCE OR COVENANT DEFEASANCE.

The following shall be the conditions to the application of Section 13.02 or Section 13.03 to any Securities or any series of Securities, as the case may be, and any Subsidiary Guarantees:

(1) The Company shall irrevocably have deposited or caused to be 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 such Securities, (a) Cash in an amount, or (b) U.S. Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide (without reinvestment), not later than one day before the due date of any payment, money in an amount, or (c) a combination thereof, in each case sufficient to pay and discharge, and which shall be applied by the Trustee to pay and discharge, the principal of and any premium and interest on such Securities on the respective Stated Maturities or Redemption Date, in accordance with the terms of this Indenture and such Securities. As used herein, “U.S. Government Obligation” means (x) any security which is (i) a direct obligation of the United States of America for the timely payment of which the full faith and credit of the United States of America is pledged or (ii) an obligation of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case (i) or (ii), is not callable or redeemable at the option of the issuer thereof, and (y) shall also include a depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any U.S. Government Obligation which is specified in Clause (x) above and held by such bank for the account of the holder of such depositary receipt, or with respect to any specific payment of principal of or interest on any U.S. Government Obligation which is so specified and held, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of principal or interest evidenced by such depositary receipt.

(2) In the event of an election to have Section 13.02 apply to any Securities or any series of Securities, as the case may be, the Company shall have delivered to the Trustee an Opinion of Counsel stating that (a) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the date of this instrument, there has been a change in the applicable Federal income tax law, in either case (a) or (b) to the effect that, and based thereon such opinion shall confirm that, the Holders of such Securities will not recognize income, gain or loss for Federal income tax purposes as a result of the deposit, Defeasance and discharge to be effected with respect to such Securities and will be subject to Federal income tax on the same amount in the same manner and at the same times as would be the case if such deposit, Defeasance and discharge were not to occur.

(3) In the event of an election to have Section 13.03 apply to any Securities or any series of Securities, as the case may be, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of such Securities will not recognize income, gain or loss for Federal income tax purposes as a result of the deposit and Covenant Defeasance to be effected with respect to such Securities and will be subject to Federal income tax on the same amount, in the same manner and at the same times as would be the case if such deposit and Covenant Defeasance were not to occur.

(4) Such provision would not cause any Outstanding Securities if then listed on any securities exchange, to be delisted as a result of such deposit.

(5) No Default or Event of Default with respect to such Securities or any other Securities shall have occurred and be continuing at the time of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) or, with regard to any such event specified in Sections 5.01(7) and 5.01(8), on the later of (a) the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until after such 91st day) or (b) the day ending on the day following the expiration of the longest preference period under any Bankruptcy Law applicable to the Company in respect of such deposit.

(6) Such Defeasance or Covenant Defeasance shall not cause the Trustee to have a conflicting interest within the meaning of the Trust Indenture Act (assuming all Securities are in default within the meaning of such Act).

(7) Such Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a Default under, any other agreement or instrument to which the Company is a party or by which it is bound.

(8) Such Defeasance or Covenant Defeasance shall not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act unless such trust shall be registered under such Act or exempt from registration thereunder.

(9) The Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent with respect to such Defeasance or Covenant Defeasance have been complied with.

SECTION 13.05 DEPOSITED MONEY AND U.S. GOVERNMENT OBLIGATIONS TO BE HELD IN TRUST; MISCELLANEOUS PROVISIONS.

Subject to the provisions of the last paragraph of Section 10.03, all cash and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee pursuant to Section 13.04 in respect of any Securities shall be held in trust and applied by the Trustee, in accordance with the provisions of such Securities and this Indenture, to the payment, either directly or through any such Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Holders of such Securities, of all sums due and to become due thereon in respect of principal and any premium and interest, but money so held in trust need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 13.04 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.

Anything in this Article to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon Company Request any Cash or U.S. Government Obligations held by it as provided in Section 13.04 with respect to any Securities which are in excess of the amount thereof which would then be required to be deposited to effect the Defeasance or Covenant Defeasance, as the case may be, with respect to such Securities.

SECTION 13.06 REINSTATEMENT.

If the Trustee or the Paying Agent is unable to apply any Cash or U.S. Government Obligations in accordance with this Article with respect to any Securities 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, then the obligations under this Indenture and such Securities from which the Company has been discharged or released pursuant to Section 13.02 or Section 13.03 and the related Subsidiary Guarantees shall be revived and reinstated as though no deposit had occurred pursuant to this Article with respect to such Securities and the related Subsidiary Guarantees, until such time as the Trustee or Paying Agent is permitted to apply all such Cash or U.S. Government Obligations held in trust pursuant to Section 13.05 with respect to such Securities in accordance with this Article; provided, however, that if the Company makes any payment of principal of or any premium or interest on any such Security following such reinstatement of its obligations, the Company shall be subrogated to the rights (if any) of the Holders of such Securities to receive such payment from the Cash or U.S. Government Obligations so held in trust by the Trustee or the Paying Agent.

ARTICLE FOURTEEN

GUARANTEES

SECTION 14.01 GUARANTEES.

Subject to this Article Fourteen, to the extent provided for in any series of Securities under this Indenture, each Guarantor hereby jointly and severally irrevocably and unconditionally Guarantees, as a primary obligor and not merely as a surety, to each Holder and to the Trustee and its successors and assigns (a) the full and punctual payment when due, whether at Stated Maturity, by acceleration, by redemption or otherwise, of all obligations of the Company under this Indenture (including obligations to the Trustee) and the Securities, whether for payment of principal of or interest on the Securities and all other monetary obligations of the Company under this Indenture and the Securities and (b) the full and punctual performance within applicable grace periods of all other obligations of the Company whether for fees, expenses, indemnification or otherwise under this Indenture and the Securities (all the foregoing being hereinafter collectively called the "Guaranteed Obligations"). Each Guarantor further agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice or further assent from each such Guarantor, and that each such Guarantor shall remain bound under this Article Fourteen notwithstanding any extension or renewal of any Guaranteed Obligation.

Each Guarantor waives presentation to, demand of payment from and protest to the Company of any of the Guaranteed Obligations and also waives notice of protest for nonpayment. Each

Guarantor waives notice of any default under the Securities or the Guaranteed Obligations. The obligations of each Guarantor hereunder shall not be affected by (a) the failure of any Holder or the Trustee to assert any claim or demand or to enforce any right or remedy against the Company or any other Person under this Indenture, the Securities or any other agreement or otherwise; (b) any extension or renewal of any thereof; (c) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Securities or any other agreement; (d) the release of any security held by any Holder or the Trustee for the Guaranteed Obligations or any of them; (e) the failure of any Holder or Trustee to exercise any right or remedy against any other guarantor of the Guaranteed Obligations; or (f) any change in the ownership of such Guarantor, except as provided in Section 14.03.

Each Guarantor hereby waives any right to which it may be entitled to have its obligations hereunder divided among the Guarantors, such that such Guarantor's obligations would be less than the full amount claimed. Each Guarantor hereby waives any right to which it may be entitled to have the assets of the Company first be used and depleted as payment of the Company's or such Guarantor's obligations hereunder prior to any amounts being claimed from or paid by such Guarantor hereunder. Each Guarantor hereby waives any right to which it may be entitled to require that the Company be sued prior to an action being initiated against such Guarantor.

Each Guarantor further agrees that its Guarantee herein constitutes a guarantee of payment, performance and compliance when due (and not a guarantee of collection) and waives any right to require that any resort be had by any Holder or the Trustee to any security held for payment of the Guaranteed Obligations.

Except as expressly set forth in Sections 13.02, 14.02 and 14.03, the obligations of each Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any Holder or the Trustee to assert any claim or demand or to enforce any remedy under this Indenture, the Securities or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, wilful or otherwise, in the performance of the obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of any Guarantor or would otherwise operate as a discharge of any Guarantor as a matter of law or equity.

Each Guarantor agrees that its Guarantee is a continuing Guarantee and shall remain in full force and effect until payment in full of all the Guaranteed Obligations. Each Guarantor further agrees that its Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of or interest on any Guaranteed Obligation is rescinded or must otherwise be restored by any Holder or the Trustee upon the bankruptcy or reorganization of the Company or otherwise.

In furtherance of the foregoing and not in limitation of any other right which any Holder or the Trustee has at law or in equity against any Guarantor by virtue hereof, upon the failure of the Company to pay the principal of or interest on any Guaranteed Obligation when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, or to perform or comply with any other Guaranteed Obligation, each Guarantor hereby promises to and shall, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the Holders or the Trustee an amount equal to the sum of (a) the unpaid principal amount of such Guaranteed Obligations, (b) accrued and unpaid interest on such Guaranteed Obligations (but only to the extent not prohibited by law) and (c) all other monetary obligations of the Company to the Holders and the Trustee.

Each Guarantor agrees that, as between it, on the one hand, and the Holders and the Trustee, on the other hand, (a) the maturity of the Guaranteed Obligations guaranteed hereby may be accelerated as provided in Article Five for the purposes of any Guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations guaranteed hereby, and (b) in the event of any declaration of acceleration of such Guaranteed Obligations as provided in Article Five, such Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable by such Guarantor for the purposes of this Section 14.01.

Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees and expenses) incurred by the Trustee or any Holder in enforcing any rights under this Section 14.01.

Upon request of the Trustee, each Guarantor shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

SECTION 14.02 LIMITATION ON LIABILITY.

Any term or provision of this Indenture to the contrary notwithstanding, the maximum aggregate amount of the Guaranteed Obligations guaranteed hereunder by any Guarantor shall not exceed the maximum amount that can be hereby Guaranteed without rendering this Indenture, as it relates to such Guarantor, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally.

SECTION 14.03 RELEASE OF SUBSIDIARY GUARANTEES.

With respect to an applicable series of Securities, a Guarantee as to any Guarantor shall terminate and be of no further force or effect and such Guarantor shall be deemed to be released from all obligations under this Article Fourteen:

- (1) at such time as such Guarantor ceases to have outstanding or Guarantee any Specified Indebtedness;
- (2) upon the Company's exercise of its Defeasance option or Covenant Defeasance option with respect to an applicable series of Securities in accordance with Article Thirteen;
- (3) upon the discharge of the Company's obligations under this Indenture with respect to an applicable series of Securities pursuant to Article Four; or
- (4) as specified in a supplemental indenture to this Indenture.

The Guarantor shall deliver to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for in this Indenture relating to such release have been complied with.

At the written request of the Company, the Trustee shall execute and deliver any documents reasonably required in order to evidence such release, discharge and termination in respect of the applicable Guarantee.

SECTION 14.04 GUARANTORS MAY CONSOLIDATE, ETC., ON CERTAIN TERMS.

No Guarantor may sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person), another Person, other than the Company or another Guarantor, unless:

- (1) immediately after giving effect to such transaction, no Default or Event of Default exists; and
- (2) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the obligations of that Guarantor under this Indenture (including its Subsidiary Guarantee) pursuant to agreements reasonably satisfactory to the Trustee.

SECTION 14.05 SUCCESSORS AND ASSIGNS.

This Article Fourteen shall be binding upon each Guarantor and its successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges conferred upon that party in this Indenture and in the Securities shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions of this Indenture.

SECTION 14.06 NO WAIVER.

Neither a failure nor a delay on the part of either the Trustee or the Holders in exercising any right, power or privilege under this Article Fourteen shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the Holders herein expressly specified are cumulative and not exclusive of any other rights, remedies or benefits which either may have under this Article Fourteen at law, in equity, by statute or otherwise.

SECTION 14.07 MODIFICATION.

No modification, amendment or waiver of any provision of this Article Fourteen, nor the consent to any departure by any Guarantor therefrom, shall in any event be effective unless in compliance with Article Nine of this Indenture, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any Guarantor in any case shall entitle such Guarantor to any other or further notice or demand in the same, similar or other circumstances.

SECTION 14.08 EXECUTION OF SUPPLEMENTAL INDENTURE FOR FUTURE GUARANTORS.

Each Subsidiary which is required to become a Guarantor pursuant to Section 10.09 shall promptly execute and deliver to the Trustee a supplemental indenture pursuant to which such Subsidiary shall become a Guarantor under this Article Fourteen and shall guarantee the Guaranteed Obligations. Concurrently with the execution and delivery of such supplemental indenture, the Company shall deliver

to the Trustee an Opinion of Counsel and an Officers' Certificate to the effect that such supplemental indenture has been duly authorized, executed and delivered by such Subsidiary and that, subject to the application of bankruptcy, insolvency, moratorium, fraudulent conveyance or transfer and other similar laws relating to creditors' rights generally and to the principles of equity, whether considered in a proceeding at law or in equity, the Guarantee of such Guarantor is a legal, valid and binding obligation of such Guarantor, enforceable against such Guarantor in accordance with its terms and to such other matters as the Trustee may reasonably request.

[Signature pages follow]

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

OWENS & MINOR, INC.

By: _____
Name: _____
Title: _____

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Name: _____
Title: _____

[Signature Page — Indenture]

GUARANTORS:

OWENS & MINOR DISTRIBUTION, INC.

By: _____
Name: _____
Title: _____

OWENS & MINOR MEDICAL, INC.

By: _____
Name: _____
Title: _____

O&M HALYARD, INC.

By: _____
Name: _____
Title: _____

BARISTA ACQUISITION I, LLC

By: _____
Name: _____
Title: _____

BARISTA ACQUISITION II, LLC

By: _____
Name: _____
Title: _____

O&M HALYARD, INC.,

as Issuer,

OWENS & MINOR, INC.,

as Parent Guarantor,

THE SUBSIDIARY GUARANTORS PARTY HERETO

and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

INDENTURE
DATED AS OF []

DEBT SECURITIES

CROSS REFERENCE TABLE (1)

CERTAIN SECTIONS OF THIS INDENTURE RELATING TO SECTIONS 310 THROUGH 318,
 INCLUSIVE, OF THE TRUST INDENTURE ACT OF 1939, AS AMENDED:

<u>TIA Section</u>	<u>Indenture Section</u>
310(a)(1)	6.09
(a)(2)	6.09
(a)(3)	N.A. (2)
(a)(4)	N.A.
(a)(5)	6.09
(b)	6.08, 6.09, 6.10
311(a)	6.13
(b)	6.13
312(a)	7.01, 7.02
(b)	7.02
(c)	7.02
313(a)	7.03
(b)	7.03
(c)	1.07, 7.03
(d)	7.03
314(a)	1.03, 7.04, 10.04
(b)	N.A.
(c)(1)	1.03
(c)(2)	1.03
(c)(3)	N.A.
(d)	N.A.
(e)	1.03
(f)	N.A.
315(a)	6.01, 6.03
(b)	6.02
(c)	6.01
(d)	6.01
(e)	5.14
316(a) (last sentence)	1.01
(a)(1)(A)	5.12
(a)(1)(B)	5.13
(a)(2)	N.A.
(b)	5.08
(c)	1.05
317(a)(1)	5.03
(a)(2)	5.04
(b)	10.03
318	1.08

¹ This Cross Reference Table shall not, for any purpose, be deemed to be part of this Indenture.

² N.A. means “not applicable.”

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THIS INDENTURE, dated as of [], is among the Company (as hereinafter defined), the Parent Guarantor (as hereinafter defined), the Guarantors (as hereinafter defined) and U.S. Bank National Association, as trustee (the "Trustee").

RECITALS

The Company, the Parent Guarantor and the Guarantors have duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of notes, debentures or other evidences of indebtedness (herein called a "Security" or the "Securities") to be issued in one or more series as in this Indenture provided.

All things necessary to make this Indenture a legal, valid and binding agreement of the Company, the Parent Guarantor and the Guarantors, in accordance with its terms, have been done.

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually covenanted and agreed, for the equal and ratable benefit of all Holders of the Securities of any series thereof, as follows:

ARTICLE ONE

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

SECTION 1.01 RULES OF CONSTRUCTION.

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (1) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;
- (2) all other terms used herein which are defined in the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein;
- (3) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles in the United States as in effect from time to time and, except as otherwise herein expressly provided, the term "generally accepted accounting principles" with respect to any computation required or permitted hereunder shall mean such United States accounting principles as are generally accepted at the date of such computation;
- (4) "or" is not exclusive;
- (5) "including" means including, without limitation; and
- (6) the words "herein," "hereof," and "hereunder" and others of similar import refer to this Indenture as a whole and not to any particular Article, Section, or other subdivision.

SECTION 1.02 DEFINITIONS.

"Act," when used with respect to any Holder, has the meaning specified in Section 1.05.

“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 the purposes of this definition, “control” when used with respect to any Person means 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” have meanings correlative to the foregoing; provided that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control.

“Authenticating Agent” means any Person authorized by the Trustee pursuant to Section 6.14 to act on behalf of the Trustee to authenticate Securities of one or more series.

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

“Board of Directors” means either the board of directors of the Company or any duly authorized committee of such board.

“Board Resolution” means a copy of one or more resolutions certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the 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, with respect to any Place of Payment or any other particular location referred to in this Indenture or in the Securities, each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York, the location of the Corporate Trust Office, the Place of Payment or other particular location referred to in this Indenture or in the Securities are authorized or obligated by law or executive order to close.

“Capital Stock” means (1) in the case of a corporation, corporate stock; (2) in the case of an association or business entity (other than a partnership or limited liability company), any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Cash” means such coin or currency of the United States as at any time of payment is legal tender for the payment of public and private debts.

“Commission” means the Securities and Exchange Commission, from time to time constituted, created under the Exchange Act, or, if any time after the execution of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

“Common Stock” means with respect to any Person, any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or nonvoting) of such Person’s common stock whether or not outstanding on the issue date of a series of Securities, and includes, without limitation, all series and classes of such common stock.

“Company” means O&M Halyard, Inc., a Virginia corporation, until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor.

“Company Request” or “Company Order” means a written request or order signed in the name of the Company by its Chairman of the Board, its Chief Executive Officer, its President, a Vice President or its Chief Financial Officer and by its Treasurer, its Secretary or an Assistant Secretary, and delivered to the Trustee.

“Corporate Trust Office” means the corporate trust office of the Trustee, which, at the time of the execution of this Indenture is located at [].

“Covenant Defeasance” has the meaning specified in Section 13.03.

“Credit Agreement” means the Credit Agreement, dated as of July 27, 2017, by and among Owens & Minor Distribution, Inc., Owens & Minor Medical, Inc., Barista Acquisition I, LLC and Barista Acquisition II, LLC (as U.S. borrowers), the Company and certain of its domestic subsidiaries as may become parties thereto from time to time (as guarantors), Wells Fargo Bank, N.A. (as administrative agent), Bank of America, N.A., JPMorgan Chase Bank, N.A. and SunTrust Bank (as co-syndication agents), and the other banks from time to time party thereto, as amended from time to time.

“Credit Facilities” means, one or more debt facilities, commercial paper facilities, or capital markets financings (whether or not registered with the Commission), in each case with banks, investment banks (acting as underwriters, placement agents or dealers), other institutional lenders or investors or trustees providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables), letters of credit, or capital markets financings, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

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

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

“Defaulted Interest” shall have the meaning set forth in Section 3.07.

“Defeasance” shall have the meaning specified in Section 13.02.

“Depository” means, with respect to the Securities of any series issuable or issued in whole or in part in the form of one or more Global Securities, DTC or another clearing agency registered under the Exchange Act that is designated to act as Depository for such Securities contemplated by Section 3.01 and if at any time there is more than one such person, “Depository” as used with respect to the Securities of any series shall mean the Depository with respect to the Securities of such series.

“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 debts.

“DTC” means The Depository Trust Company, its nominee and their respective successors and assigns.

“Event of Default” shall have the meaning set forth in Section 5.01.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

“Expiration Date” has the meaning specified in Section 1.05.

“GAAP” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession.

“Global Security” means a Security that evidences all or part of the Securities of any series that is executed by the Company and authenticated and delivered by the Trustee to a Depository or pursuant to such Depository’s instructions, all in accordance with this Indenture and that bears the legend set forth in Section 2.04 (or such legend as may be specified as contemplated by Section 3.01 for such series of Securities).

“Guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness or other obligation of any other Person; provided, however, that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business.

“Guaranteed Obligation” shall have the meaning specified in Section 14.01.

“Guarantor” means (a) each of the subsidiary guarantors listed on the signature pages hereto and (b) any other Subsidiary that has outstanding, incurs or guarantees Specified Indebtedness; provided that upon the release or discharge of such Subsidiary from its Subsidiary Guarantee in accordance with the provisions of this Indenture, such Subsidiary shall cease to be a Guarantor.

“Holder” or “Securityholder” means a Person in whose name a Security is registered in the Security Register.

“Indebtedness” means all items classified as indebtedness on the most recently available balance sheet of the Company and its consolidated Subsidiaries, in accordance with GAAP.

“Indenture” means this Indenture, as amended or supplemented from time to time in accordance with the terms hereof, including, for all purposes of this instrument and any such supplemental indenture, the provisions of the Trust Indenture Act that are deemed to be a part of and govern this instrument and any such supplemental indenture, and shall include the terms of a particular series of Securities established as contemplated in Section 3.01.

“Interest,” when used with respect to an Original Issue Discount Security, which by its terms bears interest only after Maturity, means interest payable after Maturity.

“Interest Payment Date,” when used with respect to any Security, means the Stated Maturity of an installment of interest on such Security.

“Investment Company Act” means the Investment Company Act of 1940 and any statute successor thereto, in each case as amended from time to time.

“Issue Date” means the date the Securities are first issued under the Indenture.

“Legal Holiday” shall have the meaning set forth in Section 1.14.

“Maturity,” when used with respect to any Security, means the date on which the principal of such Security or an installment of principal or, in the case of an Original Issue Discount Security, the principal amount payable upon a declaration of acceleration pursuant to Section 5.02, becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

“Notice of Default” shall have the meaning set forth in Section 5.01.

“Officer” means the Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, the President, any Vice President, the Treasurer, the Secretary, or any Assistant Secretary of the Company.

“Officers’ Certificate” means a written certificate signed in the name of the Company by its Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, its President or a Vice President, and by its Treasurer, its Secretary or an Assistant Secretary, and delivered to the Trustee. One of the Officers signing an Officers’ Certificate given pursuant to Section 10.04 shall be the principal executive, financial or accounting officer of the Company.

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

“Original Issue Discount Security” means any Security which 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 5.02.

“Outstanding,” when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

- (1) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;
- (2) Securities or portions thereof for whose payment or redemption money in the necessary amount and in the required currency or currency unit has been theretofore deposited with the Trustee or any Paying Agent (other than the Company or any other obligor upon the Securities) in trust or set aside and segregated in trust by the Company or any other obligor upon the Securities (if the Company or any other obligor upon the Securities shall act as its own Paying Agent) for the Holders of such Securities; provided that, if such Securities or portions thereof are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;
- (3) Securities as to which Defeasance has been effected pursuant to Section 13.02; and
- (4) Securities which have been paid pursuant to Section 3.06 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company;

provided, however, that in determining whether the Holders of the requisite aggregate principal amount of the Outstanding Securities have given, made or taken any request, demand, authorization, direction, notice, consent, waiver or other action hereunder as of any date, (a) the principal amount of an Original Issue Discount Security which shall be deemed to be Outstanding shall be the amount of the principal thereof which would be due and payable as of such date upon acceleration of the Maturity thereof to such date pursuant to Section 5.02, (b) if, as of such date, the principal amount payable at the Stated Maturity of a Security is not determinable, the principal amount of such Security which shall be deemed to be Outstanding shall be the amount as specified or determined as contemplated by Section 3.01, (c) the principal amount of a Security denominated in one or more foreign currencies or currency units which shall be deemed to be Outstanding shall be the U.S. dollar equivalent, determined as of such date in the manner provided as contemplated by Section 3.01, of the principal amount of such Security, (or, in the case of a Security described in Clause (a) or (b) above, of the amount determined as provided in such Clause), and (d) Securities owned by the Parent Guarantor, the Company, any Guarantor or any other obligor upon the Securities or any Affiliate of the Parent Guarantor, the Company, any Guarantor or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, waiver or other action, only Securities which a Responsible Officer of the Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Parent Guarantor, the Company, any Guarantor or any other obligor upon the Securities or any Affiliate of the Parent Guarantor, the Company, any Guarantor or of such other obligor.

“Parent Guarantee” means the Guarantee provided by the Parent Guarantor of the Guaranteed Obligations pursuant to the provisions of this Indenture, for purposes of financial reporting.

“Parent Guarantor” means Owens & Minor, Inc., a Virginia corporation, or another direct or indirect parent of the Company that guarantees the Securities, (1) until released pursuant to the applicable provisions of this Indenture or (2) until a successor Person shall have assumed all the obligations of the Parent Guarantor under this Indenture and the Parent Guarantee, and thereafter “Parent Guarantor” shall mean that successor Person until released pursuant to the applicable provisions of this Indenture.

“Paying Agent” means any Person authorized by the Company to pay the principal of or any premium or interest on any Securities of any series on behalf of the Company.

“Periodic Offering” means an offering of Securities of a series from time to time, the specific terms of which Securities, including, without limitation, the rate or rates of interest, if any, thereon, the Stated Maturity or Maturities thereof, the original issue date or dates thereof, the redemption provisions, if any, and any other terms specified as contemplated by Section 3.01 with respect thereto, are to be determined by the Company, or one or more of the Company's agents designated in an Officers' Certificate, upon the issuance of such Securities.

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

“Place of Payment,” when used with respect to the Securities of any series, means the place or places where, subject to the provisions of Section 10.02, the principal of and any interest or premium on the Securities of that series are payable as specified as contemplated by Section 3.01.

“Predecessor Security” of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 3.06 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

“Preferred Stock” means, as applied to the Capital Stock of any corporation, Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such corporation, over shares of Capital Stock of any other class of such corporation.

“Redemption Date” or “redemption date,” when used with respect to any Security to be redeemed in whole or in part, shall mean the date specified for such redemption in accordance with the terms of such Security and this Indenture.

“Redemption Price” or “redemption price,” when used with respect to any Security to be redeemed in whole or in part, means the price at which it is to be redeemed pursuant to the terms of such Security and this Indenture.

“Regular Record Date” for the interest payable on any Interest Payment Date on the Securities of any series means the date, if any, specified for that purpose as contemplated by Section 3.01.

“Responsible Officer” means any corporate trust officer located at the Corporate Trust Office of the Trustee including any Vice President, Assistant Vice President, Treasurer, Assistant Treasurer or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer’s knowledge and familiarity with the particular subject and who is responsible for the administration of this Indenture.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

“Security” or “Securities” has the meaning stated in the first recital of this Indenture and more particularly means any Security authenticated and delivered under this Indenture.

“Securityholder” or “Holder” means a Person in whose name a Security is registered in the Security Register.

“Security Register” and “Security Registrar” have the respective meanings specified in Section 3.05.

“Significant Subsidiary” means (i) any Guarantor or (ii) any Subsidiary of the Company that would be a “Significant Subsidiary” of the Company within the meaning of Rule 1-02 under Regulation S-X promulgated by the Commission.

“Special Record Date” for the payment of any Defaulted Interest on the Securities means a date fixed by the Trustee pursuant to Section 3.07.

“Specified Indebtedness” means (i) any Indebtedness under the Credit Agreement and (ii) any Indebtedness incurred under Credit Facilities that refinance such Indebtedness.

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

“Subsidiary” means, with respect to any specified Person:

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

“Subsidiary Guarantee” means any Guarantee by a Guarantor of the Guaranteed Obligations pursuant to the provisions of this Indenture.

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

“Trustee” means the party named as the “Trustee” in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, shall mean such successor. If there shall be at one time more than one Trustee hereunder, “Trustee” shall mean each such Trustee and shall apply to each such Trustee only with respect to those Securities with respect to which it is serving as Trustee.

“U.S. Government Obligation” has the meaning specified in Section 13.04.

“Vice President,” when used with respect to the Company or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title “vice president.”

“Voting Stock” of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote generally in the election of the board of directors of such Person.

SECTION 1.03 COMPLIANCE CERTIFICATES AND OPINIONS.

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee (1) such certificates and opinions as may be required under the Trust Indenture Act and (2) an Officers’ Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with, and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, provided for in this Indenture, relating to the proposed action have been complied with. Each

certificate or opinion required under the Trust Indenture Act shall be given in the form of an Officers' Certificate, if to be given by an officer of the Company, or an Opinion of Counsel, if to be given by counsel, and shall comply with the requirements of the Trust Indenture Act and any other requirements set forth in this Indenture.

Each Officers' Certificate or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture shall include:

- (1) a statement that each Person signing such Officers' Certificate or Opinion of Counsel has read such covenant or condition and the definitions herein relating thereto;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such Officers' Certificate or Opinion of Counsel are based;
- (3) a statement that, in the opinion of each such Person, he or she has made such examination or investigation as is necessary to enable such Person to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (4) a statement that, in the opinion of such Person, such covenant or condition has been complied with.

SECTION 1.04 FORM OF DOCUMENTS DELIVERED TO TRUSTEE.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon an Opinion of Counsel, or a certificate or representations by counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his or her certificate or opinion is based are erroneous. Any such certificate or Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters is erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

SECTION 1.05 ACTS OF HOLDERS; RECORD DATES.

Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders may be embodied in and

evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 6.01) conclusive in favor of the Trustee and the Company and any agent of the Trustee and the Company, if made in the same manner provided in this Section.

The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him or her the execution thereof. Where such execution is by a signer acting in a capacity other than his or her individual capacity, such certificate or affidavit shall also constitute sufficient proof of his or her authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

The ownership of Securities shall be proved by the Security Register.

Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee, the Security Registrar, any Paying Agent or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

The Company may, as permitted by the Trust Indenture Act, set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be given, made or taken by Holders of Securities of such series, provided that the Company may not set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving or making of any notice, declaration, request or direction referred to in the next paragraph. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of the relevant series on such record date, and no other Holders, shall be entitled to take the relevant action, whether or not such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite aggregate principal amount of Outstanding Securities of such series on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite aggregate principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities of the relevant series in the manner set forth in Sections 1.06 and 1.07.

The Trustee may, but shall not be obligated to, set any day as a record date for the purpose of determining the Holders of Outstanding Securities of any series entitled to join in the giving and making of (a) any Notice of Default, (b) any declaration of acceleration referred to in Section 5.02, (c) any request to institute proceedings referred to in Section 5.07(2), (d) any direction referred to in Section 5.12 or (e) any waiver of past defaults referred to in Section 5.13, in each case with respect to Securities of such series. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities of such series on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, whether or not such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite aggregate principal amount of Outstanding Securities of such series on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be canceled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite aggregate principal amount of Outstanding Securities of the relevant series on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Securities of the relevant series in the manner set forth in Sections 1.06 and 1.07.

With respect to any record date set pursuant to this Section, the party hereto which sets such record date may designate any day as the "Expiration Date" and from time to time may change the Expiration Date to any earlier or later day; provided that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each Holder of Securities of the relevant series in the manner set forth in Section 1.07, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section, the party hereto which set such record date shall be deemed to have initially designated the 90th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 90th day after the applicable record date.

Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

SECTION 1.06 NOTICES TO TRUSTEE AND COMPANY.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with:

- (1) the Trustee by any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished, or filed in writing to or with the Trustee at its Corporate Trust Office, Attention: Corporate Trust Department, or if sent by facsimile transmission, to a facsimile number provided by the Trustee, with a copy mailed, first class postage prepaid to the Trustee addressed to it as provided above; and
- (2) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to the Company addressed to it at the address of its principal office specified in the first paragraph of this instrument or at any other address previously furnished in writing to the Trustee by the Company, Attention: Chief

Financial Officer, or if sent by facsimile transmission, to a facsimile number provided to the Trustee by the Company, with a copy mailed, first class postage prepaid, to the Company addressed to it as provided above.

The Company or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

SECTION 1.07 NOTICE TO HOLDERS; WAIVER.

Any notice or communication given to a Holder of Securities shall be mailed to such Securityholder at the Securityholder's address as it appears on the registration books of the Security Registrar and shall be sufficiently given if so mailed within the time prescribed for the giving of such notice.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not received by the addressee.

If the Company mails a notice or communication to the Holders of Securities of a particular series, it shall mail a copy to the Trustee and each Security Registrar, co-registrar or Paying Agent, as the case may be, with respect to such series.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give notice to Holders of Securities by mail, then such notification as shall be made with the acceptance of the Trustee shall constitute a sufficient notification for every purpose hereunder. In any case where notice to Holders of Securities is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder of a Security shall affect the sufficiency of such notice with respect to other Holders of Securities.

Where this Indenture provides for notice of any event to a Holder of a Global Security, such notice shall be sufficiently given if given to the Depository for such Security (or its designee), pursuant to its policies and procedures, not later than the latest date (if any), and not earlier than the earliest date (if any), prescribed for the giving of such notice.

SECTION 1.08 CONFLICT WITH TRUST INDENTURE ACT.

If any provision of this Indenture limits, qualifies or conflicts with a provision of the TIA which is required under the TIA to be a part of and govern this Indenture, the required provision shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act which may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or to be excluded, as the case may be.

SECTION 1.09 EFFECT OF HEADINGS AND TABLE OF CONTENTS.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

SECTION 1.10 SUCCESSORS AND ASSIGNS.

All covenants and agreements of the Company in this Indenture and the Securities shall bind its successors and assigns, whether so expressed or not. All agreements of the Trustee in this Indenture shall bind its successors and assigns, whether so expressed or not.

SECTION 1.11 SEPARABILITY CLAUSE.

In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 1.12 BENEFITS OF INDENTURE.

Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Authenticating Agent and any Security Registrar and their successors hereunder and the Holders of Securities, any benefits or any legal or equitable right, remedy or claim under this Indenture.

SECTION 1.13 GOVERNING LAW.

This Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 1.14 LEGAL HOLIDAYS.

A "Legal Holiday" is any day other than a Business Day. If any specified date (including an Interest Payment Date, Redemption Date or Stated Maturity of any Security, or a date for giving notice) is a Legal Holiday at any Place of Payment or place for giving notice, then (notwithstanding any other provision of this Indenture or of the Securities other than a provision in the Securities of any series which specifically states that such provision shall apply in lieu of this Section) payment of interest or principal or premium, if any, need not be made at such Place of Payment, or such other action need not be taken, on such date, but the payment or action shall be taken on the next succeeding day that is not a Legal Holiday at such Place of Payment or place for giving notice with the same force and effect as if made on the Interest Payment Date or Redemption Date, or at the Stated Maturity or such other date and to the extent applicable, no Original Issue Discount or interest, if any, shall accrue for the intervening period.

SECTION 1.15 NO RECOURSE AGAINST OTHERS.

No director, officer, employee, incorporator or shareholder of the Parent Guarantor, the Company or any Guarantor, as such, shall have any liability for any obligations of the Company under the Securities or this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Securities by accepting a Security waives and releases all such liability to the extent permitted by applicable law. The waiver and release are part of the consideration for issuance of the Securities.

ARTICLE TWO
SECURITY FORMS

SECTION 2.01 FORMS AND DATING.

The Securities of each series and the Trustee's certificate of authentication shall be in substantially such form (including global form) as set forth in this Article or in such other form as shall be established from time to time by or pursuant to a Board Resolution and set forth in an Officers' Certificate or in one or more indentures supplemental hereto, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with any law, with the rules of any securities exchange or as may, consistently herewith, be determined by the Officers executing such Securities, as evidenced by their execution of the Securities.

The definitive Securities shall be printed, lithographed or engraved or produced by any combination of these methods or may be produced in any other manner, all as determined by the Officers executing such Securities, as evidenced by their execution of such Securities.

SECTION 2.02 FORM OF FACE OF SECURITY

The Securities shall be in substantially the following form:

[if the security is a Global Security, insert the legend required by Section 2.04]

O&M HALYARD, INC.
[insert title of security]

No. _____

CUSIP NO. _____
ISIN NO. _____
\$ _____

[, if the Security is a Global Security, insert — , as revised by the Schedule of Increases and Decreases in Global Security attached hereto]

O&M Halyard, Inc., a Virginia corporation (herein called the "Company," which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to _____, or registered assigns, the principal sum of _____ Dollars [if the Security is a Global Security, insert — , as revised by the Schedule of Increases and Decreases in Global Security attached hereto,] on _____ [if the Security is to bear interest prior to Maturity, insert — and to pay interest thereon from _____ or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semi-annually on _____ and _____ in each year, commencing _____, at the rate of _____ per annum, until the principal hereof is paid or made available for payment [if applicable, insert — , provided that any principal and premium, and any such installment of interest, which is overdue shall bear interest at the rate of _____ % per annum (to the extent that the payment of such interest shall be legally enforceable), from the dates such amounts are due until they are paid or made available for payment, and such interest shall be payable on demand]]. Interest will be computed on the basis of a 360-day year of twelve 30-day months. The interest so payable, and punctually paid or duly provided for (except for Defaulted Interest), on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be the _____ or _____ (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date even if Securities are cancelled, repurchased or redeemed after the Regular Record Date and on or before the Interest Payment Date. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the

Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities of this series not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture].

[If the Security is not to bear interest prior to Maturity, insert — The principal of this Security shall not bear interest except in the case of a Default in payment of principal upon acceleration, upon redemption or at Stated Maturity and in such case the overdue principal and any overdue premium shall bear interest at the rate of % per annum (to the extent that the payment of such interest shall be legally enforceable), from the dates such amounts are due until they are paid or made available for payment. Interest on any overdue principal or premium shall be payable on demand. [Any such interest on overdue principal or premium which is not paid on demand shall bear interest at the rate of % per annum (to the extent that the payment of such interest on interest shall be legally enforceable), from the date of such demand until the amount so demanded is paid or made available for payment. Interest on any overdue interest shall be payable on demand.]]

Payment of the principal of (and premium, if any) and interest on this Security will be made at the office or agency of the Company maintained for that purpose in , in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, against surrender of this Security in the case of any payment due at the Maturity of the principal hereof (other than any payment of interest that first becomes payable on a day other than an Interest Payment Date) [if applicable, insert — ; provided, however, that at the option of the Company payment of interest may be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register]. [, if the Security is a Global Security, insert — Payments in respect of Securities represented by a Global Security (including principal, premium, if any, and interest) will be made by the transfer of immediately available funds to the accounts specified by [DTC or — insert name of Depository designated pursuant to Section 3.01] or any successor depository.]

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

In Witness Whereof, the Company has caused this instrument to be duly executed.

Dated:

O&M Halyard, Inc.

By: _____

SECTION 2.03 FORM OF REVERSE OF SECURITY.

This Security is one of a duly authorized issue of securities of the Company (herein called the "Securities"), issued and to be issued in one or more series under an Indenture, dated as of , 20 (herein called the "Indenture", which term shall have the meaning assigned to it in such

instrument), among the Parent Guarantor, the Company, the Guarantors and U.S. Bank National Association, as Trustee (herein called the "Trustee", which term includes any successor trustee under the Indenture), and reference is hereby made to the Indenture and all indentures supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Parent Guarantor, the Company, the Guarantors, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. This Security is one of the series designated on the face hereof [if applicable, insert —, limited in aggregate principal amount to \$].

[If applicable, insert — The Securities of this series are subject to redemption prior to the Stated Maturity upon not less than 15 nor more than 60 days' notice by mail, [if applicable, insert — (1) on in any year commencing with the year and ending with the year through operation of the sinking fund for this series at a Redemption Price equal to 100% of the principal amount, and (2)] at any time [if applicable, insert — on or after , 20], as a whole or in part, at the election of the Company, at the following Redemption Prices (expressed as percentages of the principal amount): If redeemed [if applicable, insert — on or before , , and if redeemed] during the 12-month period beginning of the years indicated,

<u>YEAR</u>	<u>REDEMPTION PRICE</u>	<u>YEAR</u>	<u>REDEMPTION PRICE</u>
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and thereafter at a Redemption Price equal to % of the principal amount, together in the case of any such redemption [if applicable, insert — (whether through operation of the sinking fund or otherwise)] with accrued and unpaid interest to the Redemption Date, but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Regular Record Dates referred to on the face hereof, all as provided in the Indenture].

[If applicable, insert — The Securities of this series are subject to redemption upon not less than 15 nor more than 60 days' notice by mail, (1) on in any year commencing with the year and ending with the year through operation of the sinking fund for this series at the Redemption Prices for redemption through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below, and (2) at any time [if applicable, insert — on or after], as a whole or in part, at the election of the Company, at the Redemption Prices for redemption otherwise than through operation of the sinking fund (expressed as percentages of the principal amount) set forth in the table below: If redeemed during the 12-month period beginning of the years indicated,

<u>YEAR</u>	<u>REDEMPTION PRICE FOR REDEMPTION THROUGH OPERATION OF THE SINKING FUND</u>	<u>REDEMPTION PRICE FOR REDEMPTION OTHERWISE THAN THROUGH OPERATION OF THE SINKING FUND</u>
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and thereafter at a Redemption Price equal to % of the principal amount, together in the case of any such redemption (whether through operation of the sinking fund or otherwise) with accrued interest to the Redemption Date but interest installments whose Stated Maturity is on or prior to such Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant Regular Record Dates referred to on the face hereof, all as provided in the Indenture.]

[If applicable, insert — Notwithstanding the foregoing, the Company may not, prior to _____, redeem any Securities of this series as contemplated by [if applicable, insert — Clause (2) of] the preceding paragraph as a part of, or in anticipation of, any refunding operation by the application, directly or indirectly, of moneys borrowed having an interest cost to the Company (calculated in accordance with generally accepted financial practice) of less than _____ % per annum].

[If applicable, insert — The sinking fund for this series provides for the redemption on _____ in each year beginning with the year _____ and ending with the year _____ of [if applicable, insert — not less than \$ _____ (“mandatory sinking fund”) and not more than] \$ _____ aggregate principal amount of Securities of this series. Securities of this series acquired or redeemed by the Company otherwise than through [if applicable, insert — mandatory] sinking fund payments may be credited against subsequent [if applicable, insert — mandatory] sinking fund payments otherwise required to be made [if applicable, insert — _____, in the inverse order in which they become due].]

[If the Security is subject to redemption of any kind, insert — In the event of redemption of this Security in part only, a new Security or Securities of this series and of like tenor for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof.]

[If applicable, insert — The Indenture contains provisions for defeasance at any time of [the entire indebtedness of this Security] [or] [certain restrictive covenants and Events of Default with respect to this Security] [, in each case] upon compliance with certain conditions set forth in the Indenture.]

[If the Security is subordinate and junior in right of payment to other obligations of the Company, specify the terms of such subordination.]

[If the Security is secured, specify the terms of such security.]

[If the Security is convertible into Common Stock or Preferred Stock of the Company, specify the conversion features.]

[If the Security is not an Original Issue Discount Security, insert — If an Event of Default with respect to Securities of this series shall occur and be continuing, the principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.]

[If the Security is an Original Issue Discount Security, insert — If an Event of Default with respect to Securities of this series shall occur and be continuing, an amount of principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture. Such amount shall be equal to — insert formula for determining the amount. Upon payment (a) of the amount of principal so declared due and payable and (b) of interest on any overdue principal, premium and interest (in each case to the extent that the payment of such interest shall be legally enforceable), all of the Company’s obligations on the Securities of this series shall terminate.]

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification or waiver of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of more than 50% in aggregate principal amount of the Securities at the time Outstanding of each series to be affected. The Indenture also contains provisions permitting the Holders of more than 50% in aggregate principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance with

certain provisions of the Indenture and certain past Defaults (other than with respect to nonpayment or in respect of a provision that cannot be amended without the written consent of each Holder affected) under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

[If the Security is an Original Issue Discount Security, — In determining whether the Holders of the requisite aggregate principal amount of the Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver under the Indenture or whether a quorum is present at a meeting of Holders of Securities, the principal amount of any Original Issue Discount Security that shall be deemed to be Outstanding shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon the acceleration of the Maturity thereof.]

As provided in and subject to the provisions of the Indenture, the Holder of this Security shall not have the right to institute any proceeding with respect to the Indenture or for the appointment of a receiver or trustee or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default with respect to the Securities of this series, the Holders of not less than 25% in aggregate principal amount of the Securities of this series at the time Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee satisfactory indemnity, and the Trustee shall not have received from the Holders of a majority in aggregate principal amount of Securities of this series at the time Outstanding a direction inconsistent with such request, and shall have failed to institute any such proceeding, for 60 days after receipt of such notice, request and offer of indemnity. The foregoing shall not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of principal hereof or any premium or interest hereon on or after the respective due dates expressed herein.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in any place where the principal of and any premium and interest on this Security are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or its attorney duly authorized in writing, and thereupon one or more new Securities of this series and of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities of this series are issuable only in registered form without coupons in denominations of \$ and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee shall treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

The Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of New York.

All terms used in this Security that are defined in the Indenture shall have the meanings assigned to them in the Indenture.

SECTION 2.04 FORM OF LEGEND FOR GLOBAL SECURITIES.

Every Global Security authenticated and delivered hereunder shall bear a legend in substantially the following form:

THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS SECURITY MAY NOT BE EXCHANGED OR TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY, EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

UNLESS THIS SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY SECURITY ISSUED IS REGISTERED IN THE NAME OF _____ OR IN SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY (AND ANY PAYMENT IS MADE TO _____ OR TO SUCH OTHER ENTITY AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, _____, HAS AN INTEREST HEREIN.

SECTION 2.05 FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION.

Subject to Section 6.14, the Trustee's certificates of authentication shall be in substantially the following form:

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

U.S. Bank National Association,
as Trustee

BY _____
Authorized Signatory

ARTICLE THREE

THE SECURITIES

SECTION 3.01 AMOUNT UNLIMITED; ISSUABLE IN SERIES

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

The Securities may be issued in one or more series. There shall be established, in or pursuant to a Board Resolution, and, subject to Section 3.03, set forth, or determined in the manner provided, in an Officers' Certificate, 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 Securities of any other series);
- (2) whether the Securities of the series will be senior or subordinated indebtedness and, if subordinated, the terms of such subordination;
- (3) whether and the extent to which the Securities of the series are guaranteed by the Parent Guarantor or any Guarantor;
- (4) whether and the extent to which the Securities of the series are secured and, if secured, a description of the collateral securing such Securities;
- (5) any limit upon the aggregate principal amount of the Securities of the series which 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 Sections 3.04, 3.05, 3.06, 9.06 or 11.07 and except for any Securities which, pursuant to Section 3.03, are deemed never to have been authenticated and delivered hereunder) and whether that series may be reopened for additional Securities of that series; in the event that such series of Securities may be reopened from time to time for issuance of additional Securities of such series, the terms thereof shall indicate whether any such additional Securities shall have the same terms as the prior Securities of such series or whether the Company may establish additional or different terms with respect to such additional Securities;
- (6) the Person to whom any interest on a Security of the series shall be payable, if other than the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest;
- (7) the date or dates on which the principal or installments of principal of any Securities of the series is payable or the method of determination thereof and any rights to extend such date or dates;
- (8) the rate or rates at which any Securities of the series shall bear interest, if any, or the method if any by which such rate or rates are to be determined, the date or dates from which any such interest shall accrue, the Interest Payment Dates on which any such interest shall be payable and the Regular Record Date for any such interest payable on any Interest Payment Date;

(9) the place or places where, subject to the provisions of Section 10.02, the principal of and any interest and premium on Securities of the series shall be payable, any Securities of the series may be surrendered for registration of transfer, Securities of the series may be surrendered for exchange and notices and demands to or upon the Company in respect of the Securities of the series and this Indenture may be served;

(10) the period or periods within which, or the method, if any, by which such period or periods are to be determined, the price or prices at which, or the method, if any, by which such price or prices are to be determined, 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, and if other than by a Company Order, the manner in which any election by the Company to redeem the Securities shall be evidenced;

(11) the obligation, if any, of the Company to redeem, repay or purchase Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof, the conditions, if any, giving rise to such obligation, and the period or periods within which, or the method, if any, by which such period or periods are to be determined, the price or prices at which or the method, if any, by which such price or prices are to be determined and the terms and conditions upon which Securities of the series shall be redeemed or purchased, in whole or in part, and any provisions for the remarketing of such Securities;

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

(13) if the amount of payments of principal of or any interest or premium on any Securities of the series is to be determined with reference to an index, formula or other method, the manner in which such amounts shall be determined and the calculation agent, if any, with respect thereto;

(14) if other than the currency of the United States of America, the currency, currencies, or currency units in which the principal of or any premium or interest on any Securities of the series shall be payable and the manner of determining the equivalent thereof in the currency of the United States of America for any purpose, including for purposes of the definition of "Outstanding" in Section 1.02;

(15) if the principal of or any premium or interest on any Securities of the series is to be payable, at the election of the Company or the Holder thereof, in one or more currencies or currency units other than that or those in which such Securities are stated to be payable, the currency, currencies or currency units in which the principal of or any premium or interest on such Securities as to which such election is made shall be payable, the periods within which and the terms and conditions upon which such election is to be made and the amount so payable (or the manner in which such amount shall be determined);

(16) if other than the entire principal amount thereof, the portion of the principal amount of any Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 5.02;

(17) if the principal amount payable at the Stated Maturity of any Securities of the series will not be determinable as of any one or more dates prior to the Stated Maturity, the amount which shall be deemed to be the principal amount of such Securities as of any such date for any purpose thereunder or hereunder, including the principal amount thereof which shall be due and payable upon any Maturity other than the Stated Maturity or which shall be deemed to be Outstanding as of any date prior to the Stated Maturity (or, in any such case, the manner in which such amount deemed to be the principal amount shall be determined);

(18) if applicable, that the Securities of the series, in whole or any specified part, shall not be defeasible pursuant to Section 13.02 or Section 13.03 or both such Sections and, if other than by a Company Order, the manner in which any election by the Company to defease such Securities shall be evidenced;

(19) if applicable, that any Securities of the series shall be issuable in whole or in part in the form of one or more Global Securities and, in such case and if other than DTC, the respective Depositories for such Global Securities, the form of any legend or legends which shall be borne by any such Global Security in addition to or in lieu of that set forth in Section 2.04 and any circumstances in addition to or in lieu of those set forth in Section 3.05 in which any such Global Security may be exchanged in whole or in part for Securities registered, and any transfer of such Global Security in whole or in part may be registered, in the name or names of Persons other than the Depository or its nominee for such Global Security or a nominee thereof;

(20) any addition to or change in the Events of Default which applies to any Securities of the series and any change in the right of the Trustee or the requisite Holders of such Securities to declare the principal amount thereof due and payable pursuant to Section 5.02;

(21) if other than as defined in Section 1.02, the meaning of "Business Day" when used with respect to any Securities of the series;

(22) if the Securities of the series may be issued or delivered (whether upon original issuance or upon exchange of a temporary Security of such series or otherwise), or any installment of principal or of any interest is payable, only upon receipt of certain certificates or other documents or satisfaction of other conditions in addition to those specified in this Indenture, the form and terms of such certificates, documents or conditions;

(23) the terms of any right to convert, exercise or exchange Securities of the series into shares of Common Stock or Preferred Stock of the Company;

(24) the listing, if any, of the Securities of the series on any securities exchange;

(25) any addition to or change in the covenants set forth in Article Ten which applies to Securities of the series;

(26) the location where the Security Register will be maintained and the location of the office maintained in accordance with Section 10.02;
and

(27) any other terms, covenants or features of the series (which terms, covenants and features shall not be inconsistent with the provisions of this Indenture or the requirements of the Trust Indenture Act, except as permitted by Section 9.02(6)).

All Securities of any one series shall be substantially identical except as to denomination and the rate or rates of interest, if any, and Stated Maturity, the date from which interest, if any, shall accrue and except as may otherwise be provided in or pursuant to such Board Resolution and set forth in an Officers' Certificate pursuant to this Section 3.01 or in any indenture supplemental hereto; provided, however, that a different CUSIP number shall be obtained for Securities of any one series that are not identical (except as to denomination). All Securities of any one series need not be issued at the same time, unless otherwise provided pursuant to Section 3.01.

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 shall be 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 setting forth the terms of the series. With respect to Securities of a series subject to a Periodic Offering, such Board Resolution or Officers' Certificate or supplemental indenture may provide general terms for Securities of such series and provide either that the specific terms of particular Securities of such series shall be specified in a Company Order or that such terms shall be determined by the Company, or one or more of the Company's agents designated in an Officers' Certificate, in accordance with other procedures specified in a Company Order as contemplated by the third paragraph of Section 3.03.

SECTION 3.02 DENOMINATIONS.

Unless otherwise provided in the applicable Officers' Certificate or supplemental indenture contemplated by Section 3.01, the Securities of each series shall be issuable only in registered form without coupons and only in such denominations as shall be specified as contemplated by Section 3.01. In the absence of any such specified denomination with respect to the Securities of any series, the Securities of such series shall be issuable in denominations of \$1,000 and any integral multiple thereof.

SECTION 3.03 EXECUTION, AUTHENTICATION, DELIVERY AND DATING.

The Securities shall be executed on behalf of the Company by its Chairman of the Board, its Chief Executive Officer, its President, one of its Vice Presidents, its Chief Financial Officer or its Treasurer. The signature of any such officer on the Securities may be manual or facsimile.

Securities bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

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 to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities; and the Trustee in accordance with such Company Order shall authenticate and deliver such Securities; provided, however, that, with respect to Securities of a series subject to a Periodic Offering, (1) such Company Order may be delivered by the Company to the Trustee prior to the delivery to the Trustee of such Securities for authentication and delivery, (2) the Trustee shall authenticate and deliver Securities of such series for original issue from time to time, in an aggregate principal amount not exceeding the aggregate principal

amount established for such series, pursuant to a Company Order or pursuant to such procedures acceptable to the Trustee as may be specified from time to time by a Company Order and (3) the rate or rates of interest, if any, the Stated Maturity or Maturities, the original issue date or dates, the redemption provisions, if any, and any other terms of Securities of such series shall be determined by a Company Order or pursuant to such procedures.

If the forms or terms of the Securities of the series have been established in or pursuant to one or more Officers' Certificates as permitted by Sections 2.01 and 3.01, in authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive, and (subject to Section 6.01) shall be fully protected in relying upon, an Opinion of Counsel stating:

(1) that the form and terms of such Securities have been duly authorized by the Company and established in conformity with the provisions of this Indenture; and

(2) that such Securities when completed, authenticated and delivered by the Trustee in accordance with this Indenture and issued and delivered by the Company and paid for in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles;

provided, however, that, with respect to Securities of a series subject to a Periodic Offering, the Trustee shall be entitled to receive such Opinion of Counsel only once at or prior to the time of the first authentication of Securities of such series and that the Opinion of Counsel above may state:

(x) that the forms of such Securities have been, and the terms of such Securities (when established in accordance with such procedures as may be specified from time to time in a Company Order all as contemplated by and in accordance with a Board Resolution or an Officers' Certificate pursuant to Section 3.01, as the case may be) will have been, duly authorized by the Company and established in conformity with the provisions of this Indenture; and

(y) that such Securities when (i) executed by the Company, (ii) completed, authenticated and delivered by the Trustee in accordance with this Indenture, and (iii) issued and delivered by the Company and paid for in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company enforceable in accordance with their terms, subject to customary exceptions.

With respect to Securities of a series subject to a Periodic Offering, the Trustee may conclusively rely, as to the authorization by the Company of any of such Securities, the form and terms thereof and the legality, validity, binding effect and enforceability thereof, upon the Opinion of Counsel and other documents delivered pursuant to Sections 2.01 and 3.01 and this Section, as applicable, at or prior to the time of the first authentication of Securities of such series unless and until it has received written notification that such opinion or other documents have been superseded or revoked. In connection with the authentication and delivery of Securities of a series subject to a Periodic Offering, the Trustee shall be entitled to assume that the Company's instructions to authenticate and deliver such Securities do not violate any rules, regulations or orders of any governmental agency or commission having jurisdiction over the Company.

Notwithstanding the provisions of Section 3.01 and of the preceding paragraph, if all Securities of a series are subject to a Periodic Offering, it shall not be necessary to deliver the Board Resolution and Officers' Certificate otherwise required pursuant to Section 3.01 or the Company Order and Opinion of Counsel otherwise required pursuant to such preceding paragraph at or prior to the time of authentication of each Security of such series if such documents are delivered at or prior to the authentication of the first Security of such series to be issued.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein duly executed by the Trustee by manual signature of an authorized signatory, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

Each Depository designated for a Global Security in registered form must, at the time of its designation and at all times while it serves as Depository, be a clearing agency registered under the Exchange Act and any other applicable statute or regulation.

Notwithstanding the foregoing, if any Security shall have been duly authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustee for cancellation as provided in Section 3.09 together with a written statement (which need not comply with Section 1.03 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.

SECTION 3.04 TEMPORARY SECURITIES.

Pending the preparation of definitive Securities of any series, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed, photocopied or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities. Any such temporary Securities may be in global form, representing such of the Outstanding Securities of such series as shall be specified therein.

If temporary Securities of any series are issued, the Company will cause definitive Securities of that series to be prepared without unreasonable delay. After the preparation of definitive Securities of such series, the temporary Securities of such series shall be exchangeable for definitive Securities of such series upon surrender of the temporary Securities of such series at the office or agency of the Company in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series, the Company shall execute and (in accordance with a Company Order delivered at or prior to the authentication of the first definitive Security of such series) the Trustee shall authenticate and deliver in exchange therefor one or more definitive Securities of the same series, of any authorized denominations and of like tenor and aggregate principal amount. Until so exchanged, the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of such series and tenor.

Any temporary Global Security and any permanent Global Security shall, unless otherwise provided therein, be delivered to DTC or another Depository designated pursuant to Section 3.01.

SECTION 3.05 REGISTRATION; REGISTRATION OF TRANSFER AND EXCHANGE.

The Company shall cause to be kept at an office in New York City designated by the Trustee, a register (the register maintained in such office and in any other office or agency of the Company in a Place of Payment being herein sometimes collectively referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Securities and of transfers of Securities. The Trustee is hereby initially appointed "Security Registrar" for the purpose of registering Securities and transfers of Securities as herein provided. In the event that the Trustee shall cease to be the Security Registrar, it shall have the right to examine the Security Registrar at all reasonable times.

Upon surrender for registration of transfer of any Security at the office or agency of the Company designated pursuant to Section 10.02 for such purpose in a Place of Payment, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denomination or denominations of a like Stated Maturity and of a like series and aggregate principal amount and tenor.

At the option of the Holder, Securities of any series may be exchanged for other Securities of the same series, of any authorized denomination or denominations, of a like Stated Maturity and of a like series and aggregate principal amount and tenor, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee for such Securities shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 3.04, 9.06 or 11.07 not involving any transfer.

The Company may but shall not be required (a) to issue, register the transfer of or exchange Securities of any series (or of that series and specified tenor, as the case may be) during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Securities of that series selected for redemption under Section 11.03 and ending at the close of business on the day of such mailing, or (b) to register the transfer of or exchange any Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part.

The provisions of Clauses (1), (2), (3), (4) and (5) below shall apply only to Global Securities:

(1) Each Global Security authenticated under this Indenture shall be registered in the name of the Depository designated for such Global Security or a nominee thereof and delivered to such Depository or a nominee thereof or custodian therefor, and each such Global Security shall constitute a single Security for all purposes of this Indenture.

(2) Notwithstanding any other provision of this Section or Sections 3.03 and 3.04, unless and until it is exchanged in whole or in part for Securities in definitive form, a Global Security representing all or a portion of the Securities of a series may not be transferred except as a whole by the Depository for such series to a nominee of such Depository or by a nominee of such Depository to such Depository or another nominee of such Depository or by such Depository or any such nominee to a successor Depository for such series or a nominee of such successor Depository.

(3) Notwithstanding any other provision in this Indenture, no Global Security may be exchanged in whole or in part for Securities registered, and no transfer of a Global Security in whole or in part may be registered, in the name of any Person other than the Depository for such Global Security or a nominee thereof unless (a) such Depository has notified the Company that it is unwilling or unable to continue as Depository for such Global Security or has ceased to be a clearing agency registered under the Exchange Act and the Company has not appointed a successor within 90 days after such notification, (b) the Company executes and delivers to the Trustee a Company Order that such Global Security shall be so exchangeable, subject to such Depository's procedures, (c) there shall have occurred and be continuing an Event of Default with respect to such Global Security or (d) there shall exist such circumstances, if any, in addition to or in lieu of the foregoing as have been specified for this purpose as contemplated by Section 3.01.

(4) Subject to Clause (2) above, any exchange of a Global Security for other Securities may be made in whole or in part, and all Securities issued in exchange for a Global Security or any portion thereof shall be registered in such names as the Depository for such Global Security shall direct.

(5) Every Security authenticated and delivered upon registration of transfer of, or in exchange for or in lieu of, a Global Security or any portion thereof, whether pursuant to this Section, Section 3.04, 3.06, 9.06, or 11.07 or otherwise, shall be authenticated and delivered in the form of, and shall be, a Global Security, unless such Security is registered in the name of a Person other than the Depository for such Global Security or a nominee thereof.

SECTION 3.06 MUTILATED, DESTROYED, LOST AND STOLEN SECURITIES.

If (a) any mutilated Security is surrendered to the Trustee, or (b) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Security, and there is delivered to the Company and the Trustee such security or indemnity as may be required by them to save

each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide or protected purchaser, the Company shall execute and upon its written request the Trustee shall authenticate and deliver, in exchange for any such mutilated Security or in lieu of any such destroyed, lost or stolen Security, a new Security of the same series and of like tenor and principal amount and of a like Stated Maturity, bearing a number not contemporaneously Outstanding.

In case 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.

Upon the issuance of any new Securities under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security of any series issued pursuant to this Section in exchange for any mutilated Security or in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen Security shall be at any time enforceable by anyone, and any such new Security shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Securities of that series.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

SECTION 3.07 PAYMENT OF INTEREST; INTEREST RIGHTS PRESERVED.

Unless otherwise provided as contemplated by Section 3.01 with respect to any series of Securities, interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest payment.

Any interest on any Security of any series which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security of that series and the date of the proposed payment (which shall not be less than 20 days after such notice is received by the Trustee), and at the same time the Company shall deposit with the Trustee an amount of money in the currency or currency unit in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.01) for the Securities of such series equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make

arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Clause provided. Thereupon the Company shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Company shall promptly notify the Trustee of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of Securities of that series at his or her address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities of that series (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Interest on the Securities of any particular series in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section and Section 3.05, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

SECTION 3.08 PERSONS DEEMED OWNERS.

Prior to due presentment of a Security for registration of transfer, the Parent Guarantor, the Company, the Guarantors, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of, premium, if any, and (except as otherwise specified as contemplated by Section 3.01 and subject to Section 3.05 and Section 3.07) interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Parent Guarantor, the Company, the Guarantors, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

No holder of any beneficial interest in any Global Security held directly or indirectly on its behalf by a Depository (or its nominee) shall have any rights under this Indenture with respect to such Global Security or any Security represented thereby, and such Depository may be treated by the Parent Guarantor, the Company, the Guarantors, the Trustee, and any agent of the Parent Guarantor, the Company, the Guarantors or the Trustee as the owner of such Global Security or any Security represented thereby for all purposes whatsoever. None of the Parent Guarantor, the Company, the Guarantors, the Trustee, any Paying Agent or the Security Registrar will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests. Notwithstanding the foregoing, with respect to any Global Security, nothing herein shall prevent the Parent Guarantor, the Company, the Guarantors, the Trustee, or any agent of the Parent Guarantor, the

Company, the Guarantors or the Trustee, from giving effect to any written certification, proxy or other authorization furnished by a Depository or impair, as between a Depository and such holders of beneficial interests in the Securities, the operation of customary practices governing the exercise of the rights of the Depository (or its nominees) as Holder of any Security.

SECTION 3.09 CANCELLATION.

All Securities surrendered for payment, redemption, registration of transfer or exchange, or for credit against any sinking fund payment, shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and all Securities so delivered shall be promptly canceled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever (including Securities received by the Company in exchange or payment for other Securities of the Company) and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Securities previously authenticated hereunder which the Company has not issued and sold, and all Securities so delivered to the Trustee shall be promptly canceled by the Trustee. The Company may not reissue, or issue new Securities to replace, Securities it has paid for or delivered to the Trustee for cancellation. No Securities shall be authenticated in lieu of or in exchange for any Securities canceled as provided in this Section, except as expressly permitted by this Indenture. All canceled Securities held by the Trustee shall be disposed of by the Trustee in accordance with its customary procedures and the Trustee shall deliver a certificate of such disposition to the Company upon receipt of a request therefor.

SECTION 3.10 COMPUTATION OF INTEREST.

Except as otherwise specified as contemplated by Section 3.01 for Securities of any series, interest on the Securities shall be computed on the basis of a 360-day year of twelve 30-day months.

SECTION 3.11 CUSIP AND ISIN NUMBERS.

The Company in issuing the Securities may use “CUSIP” or “ISIN” numbers or both numbers (if then generally in use), and, if so, the Trustee shall use such “CUSIP” or “ISIN” numbers or both numbers in notices of redemption as a convenience to Holders; 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 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, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee of any change in the “CUSIP” or “ISIN” numbers.

ARTICLE FOUR

SATISFACTION AND DISCHARGE

SECTION 4.01 SATISFACTION AND DISCHARGE OF INDENTURE.

This Indenture shall upon Company Request cease to be of further effect with respect to any series of Securities specified in such Company Request (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for), and the Trustee, upon receipt of a Company Order and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture as to such series, when:

(1) either

(a) all Securities of a series theretofore authenticated and delivered (other than (i) Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.06 and (ii) Securities of that series for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 10.03) have been delivered to the Trustee for cancellation; or

(b) all such Securities of that series not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

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

(iii) 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 the Company, in the case of (i), (ii) or (iii) above, has irrevocably deposited or caused to be irrevocably deposited with the Trustee, as trust funds in trust for the purpose, Cash, U.S. Government Obligations, or a combination thereof, in an amount sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on such Securities of that series not theretofore delivered to the Trustee for cancellation, for principal and any premium and interest to the date of such deposit (in the case of Securities of that series which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company relating to that series of Securities;

(3) no Default or Event of Default shall have occurred and be continuing on the date of such deposit or shall occur as a result of such deposit and such deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company is a party or by which the Company is bound;

(4) the Company has deposited irrevocable instructions to the Trustee to apply the deposited money toward the payment of such Securities of that series at Maturity or the Redemption Date, as the case may be; and

(5) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture with respect to such series of Securities have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Sections 6.07 and 13.05, the obligations of the Company to any Authenticating Agent under Section 6.14 and, if Cash, U.S. Government Obligations, or a combination thereof, shall have been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section, the obligations of the Trustee under Section 4.02 and the last paragraph of Section 10.03 shall survive.

SECTION 4.02 APPLICATION OF TRUST MONEY.

Subject to the provisions of the last paragraph of Section 10.03, all money deposited with the Trustee pursuant to Section 4.01 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal and any premium and interest for whose payment such money has been deposited with, or received by, the Trustee, but such money need not be segregated from other funds except to the extent required by law.

ARTICLE FIVE

REMEDIES

SECTION 5.01 EVENTS OF DEFAULT.

“Event of Default,” wherever used herein with respect to Securities of any series, means any one of the following events and such other events as may be established with respect to the Securities of such series as contemplated by Section 3.01 (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (1) Default in the payment of any interest upon any Security of that series when it becomes due and payable, and continuance of such Default for a period of 30 days;
- (2) Default in the payment of principal of or any premium on any Security of that series at its Maturity;
- (3) Default in the deposit of any sinking fund payment, when and as due by the terms of a Security of that series, and continuance of such Default for a period of 30 days;
- (4) failure by the Company to comply with its obligations under Article Eight;

(5) Default in the performance, or breach, of any covenant or warranty of the Parent Guarantor, the Company or any Guarantor in this Indenture or the Securities (other than a covenant or warranty whose performance or breach is elsewhere in this Section specifically dealt with or which has expressly been included in this Indenture solely for the benefit of Securities of other series), and continuance of such Default or breach for a period of 60 days after there has been given, by registered or certified mail, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Outstanding Securities of that series a written notice specifying such Default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder;

(6) the Company or any Significant Subsidiary defaults under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Significant Subsidiaries (or the payment of which is guaranteed by the Company or any of its Significant Subsidiaries), other than Indebtedness owed to the Company or a Significant Subsidiary, whether such Indebtedness or Guarantee now exists, or is created after the date of this Indenture, which default:

(a) is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness prior to the expiration of any grace period provided in such Indebtedness (“payment default”); or

(b) results in the cross-acceleration of such Indebtedness prior to its maturity (the “cross acceleration provision”);

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, aggregates \$50,000,000 or more;

(7) the Company or a Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law:

(a) commences a voluntary case or proceeding;

(b) consents to the entry of a judgment, decree or order for relief against it in an involuntary case or proceeding;

(c) consents to the appointment of a Custodian of it or for any substantial part of its property;

(d) makes a general assignment for the benefit of its creditors;

(e) consents to or acquiesces in the institution of a bankruptcy or an insolvency proceeding against it;

(f) takes any corporate action to authorize or effect any of the foregoing; or

(g) takes any comparable action under any foreign laws relating to insolvency; or

(8) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(a) is for relief in an involuntary case against the Company or a Significant Subsidiary pursuant to or within the meaning of any Bankruptcy Law;

(b) appoints a Custodian for all or substantially all of the property of the Company or a Significant Subsidiary; or

(c) orders the winding up or liquidation of the Company or a Significant Subsidiary; and in each case the order, decree or relief remains unstayed and in effect for 60 days;

(9) any Subsidiary Guarantee ceases to be in full force and effect (except as contemplated by the terms thereof) or any Guarantor or Person acting by or on behalf of such Guarantor denies or disaffirms its obligations under this Indenture or any Subsidiary Guarantee;

(10) the Parent Guarantee ceases to be in full force and effect (except as contemplated by the terms thereof) or any Parent Guarantor or Person acting by or on behalf of the Parent Guarantor denies or disaffirms its obligations under this Indenture or the Parent Guarantee; or

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

SECTION 5.02 ACCELERATION OF MATURITY; RESCISSION AND ANNULMENT.

If an Event of Default with respect to Securities of any series at the time Outstanding (other than an Event of Default specified in Section 5.01(7) or 5.01(8)) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Outstanding Securities of that series by notice to the Company and the Trustee, may declare the principal amount of (or, if any of the Securities of that series are Original Issue Discount Securities, such portion of the principal amount of such Securities as may be specified in the terms thereof) all the Securities of that series to be immediately due and payable. Upon such a declaration, such principal (or portion thereof) together with accrued interest and all other amounts owing hereunder, shall be due and payable immediately. If an Event of Default specified in Section 5.01(7) or 5.01(8) occurs, the principal amount (or portion thereof) and accrued interest of all the Securities of each series then outstanding shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Securityholders.

At any time after such a declaration of acceleration with respect to Outstanding Securities has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article provided, the Holders of a majority in aggregate principal amount of the Outstanding Securities of that series, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if:

(1) the Company has paid or deposited with the Trustee in the currency or currency unit in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.01 for the Securities of such series) a sum sufficient to pay:

(a) all overdue interest on all Securities,

(b) the principal of (and premium, if any, on) any Securities of that series which have become due otherwise than by such declaration of acceleration and any interest thereon at the rate or rates prescribed therefor in such Securities,

(c) to the extent that payment of such interest is lawful, interest upon overdue interest at the rate or rates prescribed therefor in such Securities, and

(d) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and

(2) all Events of Default with respect to Securities of that series, other than the non-payment of the principal of Securities of that series which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 5.13.

No such rescission shall affect any subsequent Default or impair any right consequent thereon.

The Trustee shall have no obligations or liability for failure to act in connection with any Event of Default not actually known to a Responsible Officer.

SECTION 5.03 COLLECTION OF INDEBTEDNESS AND SUITS FOR ENFORCEMENT BY TRUSTEE.

The Company covenants that if:

(1) Default is made in the payment of any interest on any Security when such interest becomes due and payable and such Default continues for a period of 30 days, or

(2) Default is made in the payment of the principal of (or premium, if any, on) any Security at the Maturity thereof,

then the Company will, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and any premium and interest and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and premium and on any overdue interest, at the rate or rates prescribed therefor in such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses, disbursements and advances of the Trustee, its agents and counsel.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, and may prosecute such proceeding to judgment or final decree, and may enforce the same against the Company, or any other obligor upon such Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon such Securities, wherever situated.

If an Event of Default with respect to Securities of any series occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities of such series by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such right, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

SECTION 5.04 TRUSTEE MAY FILE PROOFS OF CLAIM.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relating to the Parent Guarantor, the Company, the Guarantors or any other obligor upon the Securities, or the property of the Parent Guarantor, the Company, the Guarantors or of such other obligor or their creditors, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise, to take any and all actions authorized under the Trust Indenture Act in order to have claims of the Holders and the Trustee allowed in any such proceeding. In particular, the Trustee shall be authorized to file and prove a claim for the whole amount, or such lesser amount as may be provided for in the Securities, of principal and premium, if any, and interest owing and unpaid in respect of the Securities and to file such other papers or documents as may be necessary or advisable in order 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 of the Holders allowed in such judicial proceeding; and to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official 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 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 6.07.

No provision of this Indenture 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; provided, however, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee.

SECTION 5.05 TRUSTEE MAY ENFORCE CLAIMS WITHOUT POSSESSION OF SECURITIES.

All rights of action and claims under this Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

SECTION 5.06 APPLICATION OF MONEY COLLECTED.

Any money collected by the Trustee pursuant to this Article with respect to the Securities shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or any premium or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

First: To the payment of all amounts due the Trustee under Section 6.07;

Second: To the payment of the amounts then due and unpaid for principal of or any premium and interest on the Securities in respect of which or for the benefit of which such money had been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal, and any premium and interest, respectively; and

Third: The balance, if any, to the Company.

SECTION 5.07 LIMITATION ON SUITS.

No Holder of any Security of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless

- (1) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities of that series;
- (2) the Holders of not less than 25% in aggregate principal amount of the Outstanding Securities of that series shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;
- (3) such Holder or Holders have offered to the Trustee indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request;
- (4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority in aggregate principal amount of the Outstanding Securities of that series;

it being understood and intended that no one or more of such Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other of such Holders, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all of such Holders of Securities of that series.

SECTION 5.08 RIGHTS OF HOLDERS TO RECEIVE PRINCIPAL, PREMIUM AND INTEREST.

Notwithstanding any other provision of this Indenture, the right, which is absolute and unconditional, of any Holder of any Security to receive payment of the principal of and (subject to Section 3.07) interest and premium, if any, on such Security on the Stated Maturity or Maturities expressed in such Security (or, in the case of redemption, on the Redemption Date) held by such Holder, on or after the respective due dates expressed in the Securities or any Redemption Date, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected adversely without the consent of each such Holder.

SECTION 5.09 RESTORATION OF RIGHTS AND REMEDIES.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

SECTION 5.10 RIGHTS AND REMEDIES CUMULATIVE.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 3.06, no right or remedy herein conferred upon or reserved to the Trustee or the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 5.11 DELAY OR OMISSION NOT WAIVER.

No delay or omission of the Trustee or of any Holder of any Securities to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 5.12 CONTROL BY HOLDERS.

The Holders of a majority in aggregate principal amount of the Outstanding Securities of any series shall have the right to 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, with respect to the Securities of such series, provided that:

- (1) such direction shall not be in conflict with any rule of law or with this Indenture or with the Securities;
- (2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; and
- (3) the Trustee need not take any action which might involve it in personal liability.

SECTION 5.13 WAIVER OF PAST DEFAULTS.

The Holders of not less than a majority in aggregate principal amount of the Outstanding Securities of all series that would be affected by such a default (all such series voting as a single class) may, on behalf of the Holders of all the Securities of such series, waive any past Default hereunder with respect to such series and its consequences, except a Default:

- (1) in the payment of the principal of or any premium or interest on any Security of such series, or

(2) in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Security of such series 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 5.14 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 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 5.14 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 5.07 or 5.08 or a suit by Holders of more than 10% in aggregate principal amount of the Outstanding Securities of any series.

SECTION 5.15 STAY, EXTENSION AND USURY LAWS.

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

ARTICLE SIX

THE TRUSTEE

SECTION 6.01 CERTAIN DUTIES AND RESPONSIBILITIES.

The duties and responsibilities of the Trustee shall be as provided by this Indenture and the Trust Indenture Act.

- (a) Except during the continuance of an Event of Default with respect to the Securities of any series,
 - (1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and
 - (2) 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; but in

the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture, but not to verify the contents thereof.

(b) In case an Event of Default with respect to the Securities of any series 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 its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this paragraph (c) shall not be construed to limit the effect of paragraph (a) of this Section;

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

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Securities pursuant to Section 5.12 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with respect to the Securities of that series; and

(4) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee (when serving in such capacity or in the capacity of Paying Agent, Security Registrar, or any other capacity under this Indenture) shall be subject to the provisions of this Section.

SECTION 6.02 NOTICE OF DEFAULTS.

Within 90 days after the occurrence of any Default or Event of Default hereunder with respect to the Securities of any series, the Trustee shall transmit by mail to all Holders of Securities of such series, as their names and addresses appear in the Security Register, notice of such Default or Event of Default hereunder known to a Responsible Officer of the Trustee, unless such Default or Event of

Default shall have been cured or waived; provided, however, that, except in the case of a Default or Event of Default in the payment of the principal of (or premium, if any) or interest on any Security of such series or in the payment of any sinking fund installment with respect to Securities of such series, the Trustee shall be protected in withholding such notice if and so long as the Board of Directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interest of the Holders of Securities of such series.

SECTION 6.03 CERTAIN RIGHTS OF TRUSTEE.

Subject to the provisions of Section 6.01:

- (1) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;
- (2) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order or as otherwise expressly provided herein, and any resolution of the Board of Directors shall be sufficiently evidenced by a Board Resolution;
- (3) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, conclusively rely upon an Officers' Certificate or an Opinion of Counsel;
- (4) 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;
- (5) 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 reasonably satisfactory to it against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;
- (6) 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;
- (7) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

(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 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;

(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 (when serving in such capacity or in the capacity of Paying Agent, Security Registrar or any other capacity under this Indenture), and each officer, director and employee of the Trustee and any agent, custodian and other Person employed by the Trustee to act hereunder;

(10) the Trustee may request that the Company deliver an Officers' Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded;

(11) the permissive right of the Trustee to take actions permitted by this Indenture shall not be construed as a duty or obligation; and

(12) the Trustee shall not be required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Indenture.

SECTION 6.04 NOT RESPONSIBLE FOR RECITALS OR ISSUANCE OF SECURITIES.

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and neither the Trustee nor any Authenticating Agent assumes any responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities. Neither the Trustee nor any Authenticating Agent shall be accountable for the use or application by the Company of Securities or the proceeds thereof.

SECTION 6.05 MAY HOLD SECURITIES.

The Trustee, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Company, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 6.08 and 6.13, may otherwise deal with the Company with the same rights it would have if it were not such Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

SECTION 6.06 MONEY HELD IN TRUST.

Money held by the Trustee for any series of Securities in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company.

SECTION 6.07 COMPENSATION AND REIMBURSEMENT.

The Company agrees:

- (1) to pay to the Trustee from time to time compensation for all services rendered by it hereunder as shall be agreed upon in writing by the Trustee and the Company (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust); and
- (2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

The Parent Guarantor, the Company and the Guarantors shall indemnify, defend and hold the Trustee and any predecessor Trustee (and their officers, directors, employees and agents) harmless for and against, any and all loss, liability, damages, claim or expense, including taxes (other than taxes based upon, measured by or determined by the income of the Trustee), arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses of defending itself against any claim (whether asserted by the Parent Guarantor, the Company, the Guarantors, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder.

The Company need not reimburse any expense, disbursement or advance, and the Parent Guarantor, the Company and the Guarantors need not indemnify, defend or hold the Trustee or predecessor Trustee (or their officers, directors, employees or agents) harmless for and against any loss, liability, damages, claims or expenses incurred by the Trustee, to the extent such expense, disbursement, advance, loss, liability, damages, claims or expenses was proven to have been caused by the Trustee's negligence or bad faith.

The foregoing provisions shall be applicable to the Trustee when serving in its capacity as Trustee and when serving as Paying Agent, Security Registrar or in any other capacity under this Indenture.

The Trustee shall have a lien prior to the Securities as to all property and funds held by it hereunder for any amount owing it or any predecessor Trustee pursuant to this Section 6.07, except with respect to funds held in trust for the benefit of the Holders of particular Securities.

When the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 5.01(7) or 5.01(8), such expenses (including the reasonable fees and expenses of its counsel) and the compensation for such services are intended to constitute expenses of administration under any Bankruptcy Law.

This section shall survive the discharge of the Indenture and the resignation or removal of the Trustee.

SECTION 6.08 CONFLICTING INTERESTS.

If the Trustee has or shall acquire a conflicting interest within the meaning of Section 310(b) of the Trust Indenture Act, the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and this Indenture. To the extent permitted by such Act, the Trustee shall not be subject to disqualification if the Company has sustained the burden of proving, upon application to the Commission and after opportunity for hearing thereon, that the conflicting interest in question is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting hereunder.

SECTION 6.09 CORPORATE TRUSTEE REQUIRED; ELIGIBILITY.

There shall at all times be one (and only one) Trustee hereunder with respect to the Securities of each series, which may be Trustee hereunder for Securities of one or more other series. Each Trustee shall be a Person that is eligible pursuant to the Trust Indenture Act to act as such and has a combined capital and surplus of at least \$50,000,000. If any such Person files reports of condition at least annually, pursuant to law or to the requirements of its supervising or examining authority, then for the purposes of this Section and to the extent permitted by the Trust Indenture Act, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so filed. If at any time the Trustee with respect to the Securities of any series shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

SECTION 6.10 RESIGNATION AND REMOVAL; APPOINTMENT OF SUCCESSOR.

No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 6.11.

The Trustee may resign at any time with respect to the Securities of one or more series by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 6.11 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction at the expense of the Company for the appointment of a successor Trustee with respect to the Securities of such series.

The Trustee may be removed at any time with respect to the Securities of any series by Act of the Holders of a majority in aggregate principal amount of the Outstanding Securities of such series, delivered to the Trustee and to the Company.

If at any time:

- (1) the Trustee shall fail to comply with Section 6.08 after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Security for at least six months, or
- (2) the Trustee shall cease to be eligible under Section 6.09 and shall fail to resign after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Security for at least six months, or

(3) the Trustee shall become incapable of acting or shall be adjudged bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (a) the Company by a Company Order may remove the Trustee with respect to all Securities or Securities of any series, or (b) subject to Section 5.14, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Securities of such series and the appointment of a successor Trustee or Trustees with respect thereto. If an instrument of acceptance by a successor Trustee required by Section 6.11 shall not have been delivered to the Trustee within 30 days after the giving of such notice of removal, the Trustee being removed may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, with respect to the Securities of one or more series, the Company, by a Company Order, 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) and shall comply with the applicable requirements of Section 6.11. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Securities of any series shall have not been appointed by the Company pursuant to Section 6.10, then a successor Trustee may be appointed by Act of the Holders of a majority in aggregate principal amount of the Outstanding Securities of such series delivered to the Company and the retiring Trustee. If no successor Trustee with respect to the Securities of any series shall have been so appointed by the Company or the Holders and accepted appointment in the manner required by Section 6.11, any Holder who has been a bona fide Holder of a Security of such series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

The Company shall give notice of each resignation and each removal of the Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series to all Holders of Securities of such series in the manner provided in Section 1.07. Each notice shall include the name of the successor Trustee with respect to the Securities of such series and the address of its Corporate Trust Office.

SECTION 6.11 ACCEPTANCE OF APPOINTMENT BY SUCCESSOR.

In case of the appointment hereunder of a successor Trustee with respect to all Securities, every such successor Trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of all amounts due and owing to the retiring Trustee, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (a) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (b) if the retiring Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee and (c) 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, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that 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; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates; but, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, subject nonetheless to its liens, if any, provided for in Section 6.07.

Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in the first or second preceding paragraph, as the case may be.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

SECTION 6.12 MERGER, CONVERSION, CONSOLIDATION OR SUCCESSION TO BUSINESS.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee or the Authentication Agent for such series then in office, any successor by merger, conversion or consolidation to such authenticating Trustee or Authentication Agent, as the case may be, may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee or successor Authentication Agent had itself authenticated such Securities.

SECTION 6.13 PREFERENTIAL COLLECTION OF CLAIMS AGAINST COMPANY.

If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Securities), the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Company (or any such other obligor). A Trustee who has resigned or been removed shall be subject to Section 311(a) of the Trust Indenture Act to the extent provided therein.

SECTION 6.14 APPOINTMENT OF AUTHENTICATING AGENT.

At any time when any of the Securities of any series remain Outstanding, the Trustee, with the concurrence of the Company, may appoint an Authenticating Agent or Agents with respect to one or more series of Securities which shall be authorized to act on behalf of the Trustee to authenticate Securities of such series issued upon original issue, and upon exchange, registration of transfer or partial redemption thereof or pursuant to Section 3.06, and Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Indenture to the authentication and delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than \$50,000,000 and subject to supervision or examination by federal, state or District of Columbia authority. If such Authenticating Agent files reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so filed. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee for such series and to the Company. The Trustee for any series of Securities may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee for such series may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall give written notice of such appointment in the manner provided in Section 1.07 to all Holders of Securities of the series with respect to which such Authenticating Agent will serve. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Company agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section.

If an appointment with respect to one or more series is made pursuant to this Section, the Securities of such series may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

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

U.S. Bank National Association, as Trustee

By: _____
As Authenticating Agent

By: _____
Authorized Signatory

ARTICLE SEVEN

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

SECTION 7.01 COMPANY TO FURNISH TRUSTEE NAMES AND ADDRESSES OF HOLDERS.

If the Trustee is not acting as Security Registrar for the Securities of any series and to the extent otherwise required by the Trust Indenture Act, the Company will furnish or cause to be furnished to the Trustee in writing:

(1) at least five Business Days before each Interest Payment Date for each series of Securities (or, if there is no Interest Payment Date relating to a series of Securities, semi-annually, not later than January 15 and July 15 in each year), a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders of Securities of each series as of such dates, and

(2) 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 of similar form and content as of a date not more than 15 days prior to the time such list is furnished.

The Company shall otherwise comply with Section 312(a) of the Trust Indenture Act.

SECTION 7.02 PRESERVATION OF INFORMATION; COMMUNICATIONS TO HOLDERS.

The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 7.01 and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar, if so acting. The Trustee may destroy any list furnished to it as provided in Section 7.01 upon receipt of a new list so furnished.

The rights of Holders to communicate with other Holders with respect to their rights under this Indenture or under the Securities, and the corresponding rights and privileges of the Trustee, shall be as provided by the Trust Indenture Act.

Every Holder of Securities, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any agent of either of them shall be held accountable by reason of any disclosure of information as to the names and addresses of Holders made pursuant to the Trust Indenture Act.

SECTION 7.03 REPORTS BY TRUSTEE.

The Trustee shall transmit to Holders within 60 days of May 15 of each year such reports concerning the Trustee and its actions under this Indenture as may be required and in the manner specified in the Trust Indenture Act with respect to the 12-month period ending on May 15 of such year.

A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each stock exchange upon which any Securities are listed, with the Commission and with the Company. The Company will notify the Trustee when any Securities are listed on any stock exchange.

SECTION 7.04 REPORTS BY COMPANY.

The Company shall file with the Trustee and the Commission, and transmit to Holders, such information, documents and other reports, and such summaries thereof, as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant to the Trust Indenture Act; provided that any such information, documents or reports required to be filed with the Commission pursuant to Section 13 or Section 15(d) of the Exchange Act shall be filed with the Trustee within 15 days after the same is filed with the Commission; or, if the Company is not required to file information, documents or reports pursuant to either of said Sections, then it will file with the Trustee and the Commission, in accordance with the rules and regulations prescribed from time to time by the Commission, such of the information, documents and other reports, and such summaries thereof, which may be required pursuant to Section 13 of the Exchange Act in respect of which a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations. The Company will be deemed to have furnished such reports to Holders of Securities if the Parent Guarantor has filed such reports with the Commission using the EDGAR (or successor) filing system and such reports are publicly available.

Notwithstanding the foregoing, the Company may satisfy its obligations under this Section 7.04 with respect to financial information relating to the Company by furnishing financial information relating to the Parent Guarantor; provided that the same is accompanied by consolidating financial information for the Parent Guarantor, the Company, the Guarantors and the non-Guarantor Subsidiaries of the Parent Guarantor in the manner prescribed by the Commission.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

ARTICLE EIGHT

CONSOLIDATION, MERGER AND SALE OF ASSETS

SECTION 8.01 COMPANY MAY CONSOLIDATE, ETC., ONLY ON CERTAIN TERMS.

The Company shall not merge or consolidate with or into another other Person and shall not sell, lease or convey, in a single transaction or in a series of transactions, all or substantially all of its assets to any Person, unless:

(1) the surviving, continuing or successor Person (if other than the Company) or the Person that acquires all or substantially all of its assets (a) is an entity organized and existing under the laws of the United States or a State thereof or the District of Columbia, provided that if such entity is not a corporation, a co-obligor of the Securities is a corporation organized or existing under such laws, and (b) expressly and unconditionally assumes all of its obligations under the Securities and this Indenture or assumes such obligations as a matter of law;

(2) immediately after giving effect to such merger, consolidation, sale, lease or conveyance, there is no Default or Event of Default under this Indenture; and

(3) the Company delivers or causes to be delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such merger, consolidation, sale, lease or conveyance complies with this Indenture.

SECTION 8.02 SUCCESSOR SUBSTITUTED.

The successor Person formed by such consolidation or into which the Company is merged or the successor Person to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Indenture with the same effect as if such successor had been named as the Company herein; and thereafter, except in the case of a lease of all or substantially all of its properties and assets, the Company shall be discharged from all obligations and covenants under this Indenture and the Securities.

ARTICLE NINE

SUPPLEMENTAL INDENTURES

SECTION 9.01 SUPPLEMENTAL INDENTURES WITHOUT CONSENT OF HOLDERS.

Without the consent of any Holders, the Company, when authorized by or pursuant to a Board Resolution, and the Trustee, when requested by or pursuant to a Company Request, at any time and from time to time, may amend this Indenture or enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(1) to evidence the succession of another Person to the Company and the assumption by any such successor of the obligations of the Company herein and in the Securities; or

(2) to add a Subsidiary as a Guarantor of the Securities; or

(3) to add to the covenants of the Company and the Subsidiaries, as applicable, 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

(4) to add any additional Events of Default for the benefit of the Holders of all or any series of Securities (and if such additional Events of Default are to be for the benefit of less than all series of Securities, stating that such additional Events of Default are expressly being included solely for the benefit of such series); or

(5) to add to or change any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of Securities in bearer form, registrable or not registrable as to principal, and with or without interest coupons, or to permit or facilitate the issuance of Securities in uncertificated form; or

(6) to add to, change or eliminate any of the provisions of this Indenture in respect of one or more series of Securities, provided that any such addition, change or elimination (a) shall neither (i) apply to any Security of any series created prior to the execution of such supplemental indenture and entitled to the benefit of such provision nor (ii) modify the rights of the Holder of any such Security with respect to such provision or (b) shall become effective only when there is no such Security Outstanding;

(7) to secure the Securities;

(8) to establish the form or terms of Securities of any series as permitted by Sections 2.01 and 3.01; or

(9) 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 6.11; or

(10) to comply with any requirement of the Commission in connection with the qualification of this Indenture under the Trust Indenture Act; or

(11) to cure any ambiguity, to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Indenture, provided that such action pursuant to this Clause (11) shall not adversely affect the interests of the Holders of Securities of any series in any material respect; or

(12) to conform the text of this Indenture, the Parent Guarantee, the Subsidiary Guarantees or the Securities to any provision of a "Description of Debt Securities and Guarantees" or a "Description of Notes" in an applicable registration statement or the comparable provisions in the applicable prospectus supplement to the extent that such provision in a "Description of Debt Securities and Guarantees" or a "Description of Notes" in such applicable registration statement or such comparable provision in such prospectus supplement was intended to be a verbatim recitation of a provision of this Indenture, the Parent Guarantee, the Subsidiary Guarantees or the Securities.

After an amendment or supplement under this Section becomes effective, the Company shall mail to the Securityholders of the series affected thereby a notice briefly describing such amendment or supplement. The failure to give such notice to all Securityholders, or any defect therein, shall not impair or affect the validity of an amendment or supplement under this Section.

SECTION 9.02 SUPPLEMENTAL INDENTURES WITH CONSENT OF HOLDERS.

With the consent of the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) of all series affected by such supplemental indenture (each series voting together as one class), by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution and the Trustee, when requested by a Company Request, may enter into an indenture or indentures supplemental hereto or amend this Indenture for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture and, subject to Section 5.13, any past default or compliance with any provisions of this Indenture with respect to a particular series of Securities may be waived with the written consent of the Holders of a majority in principal amount of the Outstanding Securities (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) of such series (all such series voting as a single class). However, no such supplemental indenture, amendment or waiver shall, without the consent of the Holder of each Outstanding Security affected thereby,

- (1) change the Stated Maturity of the principal of, or any installment of principal of or interest on, any Security, or reduce the principal amount thereof or the rate of interest thereon or any premium payable upon the redemption thereof, or reduce the amount of the principal of an Original Issue Discount Security or any other Security which would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.02, or change any Place of Payment where, or the coin or currency in which, any Security or any premium or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption or repayment, on or after the Redemption Date or any repayment date); or
- (2) reduce the percentage in aggregate principal amount of the Outstanding Securities of any series, the consent of whose Holders is required for any such supplemental indenture or amendment, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Indenture or certain Defaults hereunder and their consequences) provided for in this Indenture; or
- (3) impair any right (if provided for in Section 3.01) of a Holder to exchange or convert Securities for or into other securities; or
- (4) change the relative seniority or ranking of the Security; or
- (5) release any Guarantor or Parent Guarantor from any of its obligations under its Guarantee or its Parent Guarantee, as applicable, or this Indenture, except in accordance with Sections 5.13 or 14.03;
- (6) modify any of the provisions of this Section, Section 5.13 or Section 9.01, except to increase any such percentage or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the

Holder of each Outstanding Security affected thereby; provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to “the Trustee” and concomitant changes in this Section and Section 9.01, or the deletion of this proviso, in accordance with the requirements of Sections 6.11 and 9.01(9);

- (7) change any provision relating to subordination that adversely affects the rights of any Holder under such provisions; or
- (8) change any provision relating to the Security that adversely affects the rights of any Holder under such provisions.

A supplemental indenture that changes or eliminates any covenant or other provision of this Indenture that has expressly been included solely for the benefit of one or more particular series of Securities, or that 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.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed amendment, waiver or supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof. A consent to any amendment, supplement or waiver under this Indenture by any Holder of a particular series of Securities given in connection with a tender or exchange of such Holder’s Securities will not be rendered invalid by such tender or exchange.

After an amendment or supplement under this Section becomes effective, the Company shall mail to the Securityholders of the series affected thereby a notice briefly describing such amendment or supplement. The failure to give such notice to all Securityholders of any series, or any defect therein, shall not impair or affect the validity of an amendment or supplement under this Section.

SECTION 9.03 EXECUTION OF SUPPLEMENTAL INDENTURES.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Section 6.01) shall be fully protected in relying upon, an Opinion of Counsel and Officers’ Certificate stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee’s own rights, duties, privileges, protections, benefits or immunities under this Indenture or otherwise.

SECTION 9.04 EFFECT OF SUPPLEMENTAL INDENTURES.

Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

SECTION 9.05 CONFORMITY WITH TRUST INDENTURE ACT.

Every supplemental indenture executed pursuant to this Article shall conform to the requirements of the Trust Indenture Act.

SECTION 9.06 REFERENCE IN SECURITIES TO SUPPLEMENTAL INDENTURES.

Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article 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 supplemental indenture. If the Company shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Securities of such series.

SECTION 9.07 REVOCATION AND EFFECT OF CONSENTS AND WAIVERS.

A consent to an amendment, supplement or a waiver by a Holder of a Security shall bind the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent or waiver is not made on the Security. Any such Holder or subsequent Holder may revoke the consent or waiver as to such Holder's Security or portion of the Security if the Trustee receives a written notice of revocation before the date the amendment, supplement or waiver becomes effective or otherwise in accordance with any related solicitation documents. After an amendment, supplement or waiver becomes effective, it shall bind every Securityholder unless it makes a change described in any of clauses (1) through (8) of Section 9.02, in which case the amendment, supplement, waiver or other action shall bind each Securityholder who has consented to it and every subsequent Securityholder that evidences the same debt as the consenting Holder's Securities. An amendment, supplement or waiver shall become effective upon receipt by the Trustee of the requisite number of written consents under Section 9.02.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Securityholders entitled to give their consent or take any other action described in Section 9.02 above or required or permitted to be taken pursuant to this Indenture. If a record date is fixed, then notwithstanding the immediately preceding paragraph, those Persons who were Securityholders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. If the Trustee sets a record date for a vote or other action to be taken by Holders of the Securities, that vote or action may be taken only by persons who are holders of Outstanding Securities on the record date and the action voted upon must be effective within 90 days following the record date.

ARTICLE TEN

COVENANTS

SECTION 10.01 PAYMENT OF PRINCIPAL, PREMIUM AND INTEREST.

The Company covenants and agrees for the benefit of the Holders of each series of Securities that it will duly and punctually pay the principal of and any premium and interest on the Securities of that series in accordance with the terms of the Securities and this Indenture. In the absence of contrary provisions with respect to the Securities of any series, interest on the Securities of any series may, at the option of the Company, be paid by check mailed to the address of the Person entitled thereto as it appears on the Security Register; *provided, however*, that payments of interest will be made by wire transfer if a Holder of at least \$1,000,000 in principal amount of Securities has given wire transfer instructions to the Trustee at least five business days prior to the applicable Interest Payment Date. An installment of principal of or interest on the Securities shall be considered paid on the date it is due if the

Trustee or a Paying Agent (other than the Company or an Affiliate of the Company) holds on that date immediately available funds designated for and sufficient to pay such installment. To the extent lawful, and if so provided for with respect to a particular series of Securities, the Company shall pay interest on overdue principal at the rate specified therefor in the Securities, and it shall pay interest on overdue installments of interest at the rate per annum borne by the applicable series of Securities.

SECTION 10.02 MAINTENANCE OF OFFICE OR AGENCY.

As long as any of the Securities of a series remain Outstanding, the Company will maintain in each Place of Payment for such series an office or agency where Securities of that series may be presented or surrendered for payment, where Securities of that series may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. An office in New York City designated by the Trustee shall be such office or agency of the Company, unless the Company shall designate and maintain some additional office or agency for one or more of such purposes. If at any time the Company shall fail to maintain any such required office or agency in respect of any series of Securities or shall fail to furnish the Trustee with the address thereof, such presentations and surrenders of Securities of that series may be made and notices and demands may be made or served at the address of the Trustee set forth in Section 1.06, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

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 accordance with the requirements set forth above 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 10.03 MONEY FOR SECURITIES PAYMENTS TO BE HELD IN TRUST.

If the Company shall at any time act as its own Paying Agent with respect to any series of Securities, it will, on or before each due date of the principal of or any premium or interest on any of the Securities of that series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal and any premium and interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for any series of Securities, it will, prior to each due date of the principal of or any premium or interest on any Securities of that series, deposit with a Paying Agent a sum sufficient to pay such amount, such sum to be held as provided by the Trust Indenture Act, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee in writing of its action or failure so to act.

The Company will cause each Paying Agent for any series of Securities other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will (a) comply with the provisions of the Trust Indenture Act applicable to it as a Paying Agent and (b) during the continuance of any Default by the Company (or any other obligor upon the Securities of that series) in the making of any payment in respect of the Securities of that series, upon the written request of the Trustee, forthwith pay to the Trustee all sums held in trust by such Paying Agent for payment in respect of the Securities of that series.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of or any premium or interest on any Security of any series and remaining unclaimed for two years after such principal, premium or interest has become due and payable shall be paid to the Company upon receipt of a Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, if any such money represents the principal of, premium, if any, or interest payable with respect to Securities that are in bearer form or that are registered to bearer, the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in each Place of Payment, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 10.04 COMPLIANCE CERTIFICATE.

The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year of the Company ending after the date hereof, an Officers' Certificate, one of the signatures of which shall be that of the Company's principal executive, financial or accounting officer, stating that in the course of the performance by the signers of their duties as Officers of the Company they would normally have knowledge of any Default or Event of Default and whether or not, to the best knowledge of the signers thereof, the Company is in Default in the performance and observance of any of the terms, provisions and conditions of this Indenture (without regard to any period of grace or requirement of notice provided hereunder) or there is an Event of Default and, if the Company shall be in Default or there is an Event of Default, specifying all such Defaults and Events of Default and the nature and status thereof.

SECTION 10.05 CORPORATE EXISTENCE.

Subject to Article Eight, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence in accordance with its organizational documents (as the same may be amended from time to time), rights (charter and statutory), licenses and franchises; *provided, however*, that the Company shall not be required to preserve any such right, license or franchise if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and each of its Subsidiaries, taken as a whole, and that the loss thereof is not, and will not be, disadvantageous in any material respect to the Holders.

SECTION 10.06 PAYMENT OF TAXES AND OTHER CLAIMS.

The Company will or will cause a Subsidiary to pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (a) all taxes, assessments and governmental charges levied or imposed upon the Company or any Subsidiary or upon the income, profits or property of the Company or any Subsidiary, and (b) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon the property of the Company or any Subsidiary; *provided, however*, that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which appropriate reserves, if necessary (in the good faith judgment of management of the Company), are being maintained in accordance with generally accepted accounting principles in the United States of America or if the Company shall determine that the failure to pay would not have a material adverse effect on the Company and its Subsidiaries taken as a whole.

SECTION 10.07 [Reserved].

SECTION 10.08 [Reserved].

SECTION 10.09 ADDITIONAL SUBSIDIARY GUARANTEES.

To the extent provided for in any series of Securities under this Indenture, each Subsidiary of the Company that incurs, has outstanding or Guarantees any Specified Indebtedness shall, simultaneously with such incurrence or guarantee (or, if the Subsidiary has outstanding or Guarantees Specified Indebtedness at the time of its creation or acquisition, at the time of such creation or acquisition), become a Guarantor and execute and deliver to the Trustee a supplemental indenture pursuant to which such Subsidiary shall agree to Guarantee the Company's obligations under the Securities on the terms set forth in Article Fourteen (except as otherwise specified as contemplated by Section 3.01 for such Securities).

ARTICLE ELEVEN

REDEMPTION OF SECURITIES

SECTION 11.01 APPLICABILITY OF ARTICLE.

Securities of any series which are redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise specified as contemplated by Section 3.01 for such Securities) in accordance with this Article.

SECTION 11.02 ELECTION TO REDEEM; NOTICE TO TRUSTEE.

The election of the Company to redeem any Securities shall be pursuant to a Board Resolution and evidenced by a Company Order. In case of any redemption at the election of the Company of less than all of the Securities of any series (including any such redemption affecting only a single Security), the Company shall, at least 45 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date, of the principal amount of Securities of such series to be redeemed and, if applicable, of the tenor of the Securities to be redeemed. In the case of any redemption of Securities prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, the Company shall furnish the Trustee with an Officers' Certificate evidencing compliance with such restriction.

SECTION 11.03 SELECTION BY TRUSTEE OF SECURITIES TO BE REDEEMED.

If less than all the Securities of any series are to be redeemed (unless all the Securities of such series and of a specified tenor are to be redeemed or unless such redemption affects only a single Security), 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 not previously called for redemption, in compliance with the requirements of the principal national securities exchange, if any, on which such Securities are listed, or, if such Securities are not so listed, pro rata or by lot or by such other method as the Trustee in its sole discretion shall deem fair and appropriate (and in such manner as complies with applicable legal requirements) and which may provide for the selection for redemption of a portion of the principal amount of any Security of such series, provided that the unredeemed portion of the principal amount of any Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security. If less than all the Securities of such series and of a specified tenor are to be redeemed (unless such redemption affects only a single Security), 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 specified tenor not previously called for redemption in accordance with the preceding sentence. The selection, by the Trustee, of the Securities to be redeemed shall be conclusive and binding and the Trustee shall incur no liability in connection with such selection.

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

The provisions of the two preceding paragraphs shall not apply with respect to any redemption affecting only a single Security, whether such Security is to be redeemed in whole or in part. In the case of any such redemption in part, the unredeemed portion of the principal amount of the Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security.

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

Notwithstanding anything else contained in this Section 11.03, the selection of Securities, or portions thereof, that are represented by a Global Security or that are held by or on behalf of a Depositary, in the case of any partial redemption, shall also be made in accordance with the applicable rules and procedures of such Depositary and neither the Trustee nor the Company shall have any liability or responsibility with respect thereto.

SECTION 11.04 NOTICE OF REDEMPTION.

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than 15 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed, at the Holder's address appearing in the Security Register, but failure to give such notice in the manner herein provided to the Holder of any Security designated for redemption as a whole or in part, or any defect in the notice to any such Holder, shall not affect the validity of the proceedings for the redemption of any other such Security or portion thereof.

Any notice that is mailed to the Holders of Securities in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Holder receives the notice.

All notices of redemption shall identify the Securities being redeemed (including the CUSIP or ISIN number) and state:

- (1) the Redemption Date,
- (2) the Redemption Price (or the method of calculation thereof if the price is not determinable as of the date of the notice of redemption),
- (3) if less than all the Outstanding Securities of any series consisting of more than a single Security are to be redeemed, the identification (and, in the case of partial redemption of any such Securities, the principal amounts) of the particular Securities to be redeemed and, if less than all Outstanding Securities of any series consisting of a single Security are to be redeemed, the principal amount of the particular Security to be redeemed,
- (4) that on the Redemption Date the Redemption Price will become due and payable upon each such Security to be redeemed and, if applicable, that interest thereon will cease to accrue on and after said date,
- (5) the place or places where each such Security is to be surrendered for payment of the Redemption Price and accrued interest, if any,
- (6) that the redemption is for a sinking fund, if such is the case,
- (7) the name and address of the Paying Agent,
- (8) that Securities called for redemption must be surrendered to the Paying Agent to collect the redemption price, and
- (9) that no representation is made as to the accuracy or correctness of the CUSIP and/or ISIN numbers listed in such notice or printed on the Securities.

In addition, unless otherwise specified in accordance with Section 3.01, such notice may state that (1) the redemption will be conditional upon the Trustee or the Paying Agent receiving sufficient funds to pay the principal, premium, if any, and interest on the Securities subject to redemption on the Redemption Date and (2) if the Trustee or the Paying Agent does not receive those funds, the redemption notice will not apply, and the Company will not be required to redeem the Securities subject to redemption.

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 request, by the Trustee in the name and at the expense of the Company and shall be irrevocable.

SECTION 11.05 DEPOSIT OF REDEMPTION PRICE.

On or prior to 10:00 a.m., New York City time, on any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 10.03) an amount of money sufficient to pay the

Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on, all the Securities which are to be redeemed on that date, other than Securities or portions of Securities called for redemption that are beneficially owned by the Company and have been delivered by the Company to the Trustee for cancellation.

SECTION 11.06 SECURITIES PAYABLE ON REDEMPTION DATE.

Notice of redemption having been given as aforesaid, the Securities or portions of Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified (together with accrued interest, if any, to but not including the Redemption Date), and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Securities shall cease to bear interest and the only right of the Holders thereof will be to receive payment of the redemption price and, subject to the next sentence, unpaid interest on such Securities to the Redemption Date. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price, together with accrued interest to the Redemption Date; *provided, however*, that, unless otherwise specified as contemplated by Section 3.01, installments of interest whose Stated Maturity is on or prior to the Redemption Date will be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 3.07.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal and any premium shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

SECTION 11.07 SECURITIES REDEEMED IN PART.

Any Security which is to be redeemed only in part shall be surrendered at a Place of Payment therefor (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or the Holder's attorney duly authorized in writing), and the Company shall execute, 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 like tenor, 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; *provided, however*, that if a Global Security is so surrendered, such new Security so issued shall be a new Global Security in a denomination equal to the unredeemed portion of the principal of the Global Security so surrendered.

ARTICLE TWELVE

SINKING FUNDS

SECTION 12.01 APPLICABILITY OF ARTICLE.

The provisions of this Article shall be applicable to any sinking fund for the retirement of Securities of a series, except as otherwise specified as contemplated by Section 3.01 for Securities of such series.

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.” If provided for 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 12.02. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of the Securities of such series.

SECTION 12.02 SATISFACTION OF SINKING FUND PAYMENTS WITH SECURITIES.

The Company (a) may deliver Outstanding Securities of a series with the same issue date, interest rate and Stated Maturity (other than any previously called for redemption), and (b) may apply as a credit Securities of a series with the same issue date, interest rate and Stated Maturity which 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 mandatory sinking fund payment with respect to the Securities of such series with the same issue date, interest rate and Stated Maturity; 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 12.03 REDEMPTION OF SECURITIES FOR SINKING FUND.

Not less than 35 days (or such shorter period as shall be acceptable to the Trustee) prior 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 delivering and crediting Securities of that series pursuant to Section 12.02 and will also deliver to the Trustee any Securities to be so delivered. Not less than 30 days before each such sinking fund payment date, the Securities to be redeemed upon such sinking fund payment date shall be selected in the manner specified in Section 11.03 and the Trustee shall 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 11.04. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 11.06 and 11.07.

ARTICLE THIRTEEN

DEFEASANCE AND COVENANT DEFEASANCE

SECTION 13.01 COMPANY’S RIGHT WITH RESPECT TO DEFEASANCE OR COVENANT DEFEASANCE.

The Company will have the right, at any time, to have Section 13.02 or Section 13.03 applied to any Securities or any series of Securities, as the case may be (other than Securities of a series designated pursuant to Section 3.01 as not being defeasible pursuant to Section 13.02 or 13.03), upon compliance with the conditions set forth below in this Article. Any request under this Article shall be evidenced by a Company Order or in another manner specified as contemplated by Section 3.01 for such Securities.

SECTION 13.02 DEFEASANCE AND DISCHARGE.

Upon the Company’s exercise of its right to have this Section applied to any Securities or any series of Securities, as the case may be, the Parent Guarantor, the Company and the Guarantors shall be deemed to have been discharged from its obligations with respect to the Parent Guarantee, such

Securities and the Subsidiary Guarantees, respectively, as provided in this Section on and after the date the conditions set forth in Section 13.04 are satisfied (hereinafter called "Defeasance"). For this purpose, such Defeasance means that the Parent Guarantor, the Company and the Guarantors shall be deemed to have paid and discharged the entire indebtedness represented by the Parent Guarantee, such Securities and the Subsidiary Guarantees, respectively, which shall thereafter be deemed to be "Outstanding" only for the purposes of Section 13.05 and the other sections of this Indenture referred to in clauses (a) and (b) below, and to have satisfied all its other obligations under the Parent Guarantee, such Securities, the Subsidiary Guarantees and this Indenture insofar as the Parent Guarantee, such Securities and the Subsidiary Guarantees are concerned (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), subject to the following which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of such Securities to receive, solely from the trust fund described in Section 13.04 and as more fully set forth in such Section, (i) payments in respect of the principal of and any premium and interest on the Outstanding Securities on the Stated Maturity of such principal or installment of principal of and any premium or interest and (ii) the benefit of any mandatory sinking fund payments applicable to the Securities on the day on which such payments are due and payable in accordance with the terms of this Indenture and the Securities of such series; (b) the Company's obligations with respect to such Securities under Sections 3.04, 3.05, 3.06, 10.02 and 10.03; (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder including the duty of the Trustee to authenticate Securities of such series issued on registration of transfer or exchange and the Company's obligation in connection therewith; and (d) this Article. Subject to compliance with this Article, the Company may exercise its option to have this Section applied to the Parent Guarantee, any Securities and any Subsidiary Guarantees notwithstanding the prior exercise of its option to have Section 13.03 applied to such securities.

SECTION 13.03 COVENANT DEFEASANCE.

Upon the Company's exercise of its right to have this Section applied to any Securities or any series of Securities, as the case may be, and the Parent Guarantee and any Subsidiary Guarantees (a) the Company shall be released from its obligations under any covenants provided pursuant to Section 9.01(3) for the benefit of the Holders of such Securities and (b) the occurrence of any event specified in Sections 5.01(3), 5.01(4), 5.01(5) (with respect to any such covenants provided pursuant to Section 9.01(3)), 5.01(6), 5.01(9), 5.01(10) and 5.01(11) shall be deemed not to be or result in an Event of Default, in each case with respect to such Securities as provided in this Section on and after the date the conditions set forth in Section 13.04 are satisfied (hereinafter called "Covenant Defeasance"). For this purpose, such Covenant Defeasance means that, with respect to such Securities, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such specified Section (to the extent so specified in the case of Section 5.01(5)), whether directly or indirectly by reason of any reference elsewhere herein to any such Section or by reason of any reference in any such Section to any other provision herein or in any other document, but the remainder of this Indenture and such Securities shall be unaffected thereby.

SECTION 13.04 CONDITIONS TO DEFEASANCE OR COVENANT DEFEASANCE.

The following shall be the conditions to the application of Section 13.02 or Section 13.03 to any Securities or any series of Securities, as the case may be, and the Parent Guarantee and any Subsidiary Guarantees:

- (1) The Company shall irrevocably have deposited or caused to be 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 such Securities, (a) Cash in an amount, or (b) U.S. Government Obligations which

through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide (without reinvestment), not later than one day before the due date of any payment, money in an amount, or (c) a combination thereof, in each case sufficient to pay and discharge, and which shall be applied by the Trustee to pay and discharge, the principal of and any premium and interest on such Securities on the respective Stated Maturities or Redemption Date, in accordance with the terms of this Indenture and such Securities. As used herein, "U.S. Government Obligation" means (x) any security which is (i) a direct obligation of the United States of America for the timely payment of which the full faith and credit of the United States of America is pledged or (ii) an obligation of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case (i) or (ii), is not callable or redeemable at the option of the issuer thereof, and (y) shall also include a depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any U.S. Government Obligation which is specified in Clause (x) above and held by such bank for the account of the holder of such depositary receipt, or with respect to any specific payment of principal of or interest on any U.S. Government Obligation which is so specified and held, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of principal or interest evidenced by such depositary receipt.

(2) In the event of an election to have Section 13.02 apply to any Securities or any series of Securities, as the case may be, the Company shall have delivered to the Trustee an Opinion of Counsel stating that (a) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the date of this instrument, there has been a change in the applicable Federal income tax law, in either case (a) or (b) to the effect that, and based thereon such opinion shall confirm that, the Holders of such Securities will not recognize income, gain or loss for Federal income tax purposes as a result of the deposit, Defeasance and discharge to be effected with respect to such Securities and will be subject to Federal income tax on the same amount in the same manner and at the same times as would be the case if such deposit, Defeasance and discharge were not to occur.

(3) In the event of an election to have Section 13.03 apply to any Securities or any series of Securities, as the case may be, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of such Securities will not recognize income, gain or loss for Federal income tax purposes as a result of the deposit and Covenant Defeasance to be effected with respect to such Securities and will be subject to Federal income tax on the same amount, in the same manner and at the same times as would be the case if such deposit and Covenant Defeasance were not to occur.

(4) Such provision would not cause any Outstanding Securities if then listed on any securities exchange, to be delisted as a result of such deposit.

(5) No Default or Event of Default with respect to such Securities or any other Securities shall have occurred and be continuing at the time of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) or, with regard to any such event specified in Sections 5.01(7) and 5.01(8),

on the later of (a) the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until after such 91st day) or (b) the day ending on the day following the expiration of the longest preference period under any Bankruptcy Law applicable to the Company in respect of such deposit.

(6) Such Defeasance or Covenant Defeasance shall not cause the Trustee to have a conflicting interest within the meaning of the Trust Indenture Act (assuming all Securities are in default within the meaning of such Act).

(7) Such Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a Default under, any other agreement or instrument to which the Company is a party or by which it is bound.

(8) Such Defeasance or Covenant Defeasance shall not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act unless such trust shall be registered under such Act or exempt from registration thereunder.

(9) The Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent with respect to such Defeasance or Covenant Defeasance have been complied with.

SECTION 13.05 DEPOSITED MONEY AND U.S. GOVERNMENT OBLIGATIONS TO BE HELD IN TRUST; MISCELLANEOUS PROVISIONS.

Subject to the provisions of the last paragraph of Section 10.03, all cash and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee pursuant to Section 13.04 in respect of any Securities shall be held in trust and applied by the Trustee, in accordance with the provisions of such Securities and this Indenture, to the payment, either directly or through any such Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Holders of such Securities, of all sums due and to become due thereon in respect of principal and any premium and interest, but money so held in trust need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 13.04 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.

Anything in this Article to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon Company Request any Cash or U.S. Government Obligations held by it as provided in Section 13.04 with respect to any Securities which are in excess of the amount thereof which would then be required to be deposited to effect the Defeasance or Covenant Defeasance, as the case may be, with respect to such Securities.

SECTION 13.06 REINSTATEMENT.

If the Trustee or the Paying Agent is unable to apply any Cash or U.S. Government Obligations in accordance with this Article with respect to any Securities 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, then the obligations under this Indenture and such

Securities from which the Company has been discharged or released pursuant to Section 13.02 or Section 13.03 and the related Parent Guarantee and Subsidiary Guarantees shall be revived and reinstated as though no deposit had occurred pursuant to this Article with respect to such Securities and the related Parent Guarantee and Subsidiary Guarantees, until such time as the Trustee or Paying Agent is permitted to apply all such Cash or U.S. Government Obligations held in trust pursuant to Section 13.05 with respect to such Securities in accordance with this Article; provided, however, that if the Company makes any payment of principal of or any premium or interest on any such Security following such reinstatement of its obligations, the Company shall be subrogated to the rights (if any) of the Holders of such Securities to receive such payment from the Cash or U.S. Government Obligations so held in trust by the Trustee or the Paying Agent.

ARTICLE FOURTEEN

GUARANTEES

SECTION 14.01 GUARANTEES.

Subject to this Article Fourteen, to the extent provided for in any series of Securities under this Indenture, each Guarantor hereby jointly and severally irrevocably and unconditionally Guarantees, as a primary obligor and not merely as a surety, to each Holder and to the Trustee and its successors and assigns (a) the full and punctual payment when due, whether at Stated Maturity, by acceleration, by redemption or otherwise, of all obligations of the Company under this Indenture (including obligations to the Trustee) and the Securities, whether for payment of principal of or interest on the Securities and all other monetary obligations of the Company under this Indenture and the Securities and (b) the full and punctual performance within applicable grace periods of all other obligations of the Company whether for fees, expenses, indemnification or otherwise under this Indenture and the Securities (all the foregoing being hereinafter collectively called the "Guaranteed Obligations"). Each Guarantor further agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice or further assent from each such Guarantor, and that each such Guarantor shall remain bound under this Article Fourteen notwithstanding any extension or renewal of any Guaranteed Obligation.

Subject to this Article Fourteen, to the extent provided for in any series of Securities under this Indenture, the Parent Guarantor hereby jointly and severally irrevocably and unconditionally Guarantees, as a primary obligor and not merely as a surety, to each Holder and to the Trustee and its successors and assigns (a) the full and punctual payment when due, whether at Stated Maturity, by acceleration, by redemption or otherwise, of all obligations of the Company under this Indenture (including obligations to the Trustee) and the Securities, whether for payment of principal of or interest on the Securities and all other monetary obligations of the Company under this Indenture and the Securities and (b) the full and punctual performance within applicable grace periods of all other Guaranteed Obligations under this Indenture and the Securities. The Parent Guarantor further agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice or further assent from the Parent Guarantor, and that the Parent Guarantor shall remain bound under this Article Fourteen notwithstanding any extension or renewal of any Guaranteed Obligation.

Each of the Guarantors and the Parent Guarantor waives presentation to, demand of payment from and protest to the Company of any of the Guaranteed Obligations and also waives notice of protest for nonpayment. Each of the Guarantors and the Parent Guarantor waives notice of any default under the Securities or the Guaranteed Obligations. The obligations of each of the Guarantors and the Parent Guarantor hereunder shall not be affected by (a) the failure of any Holder or the Trustee to assert any claim or demand or to enforce any right or remedy against the Company or any other Person under

this Indenture, the Securities or any other agreement or otherwise; (b) any extension or renewal of any thereof; (c) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Securities or any other agreement; (d) the release of any security held by any Holder or the Trustee for the Guaranteed Obligations or any of them; (e) the failure of any Holder or Trustee to exercise any right or remedy against any other guarantor of the Guaranteed Obligations; or (f) any change in the ownership of such Guarantor or the Parent Guarantor, except as provided in Section 14.03.

Each of the Guarantors and the Parent Guarantor hereby waives any right to which it may be entitled to have its obligations hereunder divided among the Guarantors and the Parent Guarantor, such that such Guarantor's obligations or the Parent Guarantor's obligations would be less than the full amount claimed. Each of the Guarantors and the Parent Guarantor hereby waives any right to which it may be entitled to have the assets of the Company first be used and depleted as payment of the Company's or such Guarantor's or the Parent Guarantor's obligations hereunder prior to any amounts being claimed from or paid by such Guarantor or the Parent Guarantor hereunder. Each of the Guarantors and the Parent Guarantor hereby waives any right to which it may be entitled to require that the Company be sued prior to an action being initiated against such Guarantor or the Parent Guarantor.

Each of the Guarantors and the Parent Guarantor further agrees that its Guarantee herein constitutes a guarantee of payment, performance and compliance when due (and not a guarantee of collection) and waives any right to require that any resort be had by any Holder or the Trustee to any security held for payment of the Guaranteed Obligations.

Except as expressly set forth in Sections 13.02, 14.02 and 14.03, the obligations of each of the Guarantors and the Parent Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each of the Guarantors and the Parent Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any Holder or the Trustee to assert any claim or demand or to enforce any remedy under this Indenture, the Securities or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, wilful or otherwise, in the performance of the obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of any Guarantor or the Parent Guarantor or would otherwise operate as a discharge of any Guarantor or the Parent Guarantor as a matter of law or equity.

Each of the Guarantors and the Parent Guarantor agrees that its Guarantee is a continuing Guarantee and shall remain in full force and effect until payment in full of all the Guaranteed Obligations. Each of the Guarantors and the Parent Guarantor further agrees that its Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of or interest on any Guaranteed Obligation is rescinded or must otherwise be restored by any Holder or the Trustee upon the bankruptcy or reorganization of the Company or otherwise.

In furtherance of the foregoing and not in limitation of any other right which any Holder or the Trustee has at law or in equity against any Guarantor or the Parent Guarantor by virtue hereof, upon the failure of the Company to pay the principal of or interest on any Guaranteed Obligation when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, or to perform or comply with any other Guaranteed Obligation, each of the Guarantors and the Parent Guarantor hereby promises to and shall, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the Holders or the Trustee an amount equal to the sum of (a) the unpaid principal amount of such Guaranteed Obligations, (b) accrued and unpaid interest on such Guaranteed Obligations (but only to the extent not prohibited by law) and (c) all other monetary obligations of the Company to the Holders and the Trustee.

Each of the Guarantors and the Parent Guarantor agrees that, as between it, on the one hand, and the Holders and the Trustee, on the other hand, (a) the maturity of the Guaranteed Obligations guaranteed hereby may be accelerated as provided in Article Five for the purposes of any Guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations guaranteed hereby, and (b) in the event of any declaration of acceleration of such Guaranteed Obligations as provided in Article Five, such Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable by such Guarantor or the Parent Guarantor for the purposes of this Section 14.01.

Each of the Guarantors and the Parent Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees and expenses) incurred by the Trustee or any Holder in enforcing any rights under this Section 14.01.

Upon request of the Trustee, each of the Guarantors and the Parent Guarantor shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

SECTION 14.02 LIMITATION ON LIABILITY.

Any term or provision of this Indenture to the contrary notwithstanding, the maximum aggregate amount of the Guaranteed Obligations guaranteed hereunder by any Guarantor or the Parent Guarantor shall not exceed the maximum amount that can be hereby Guaranteed without rendering this Indenture, as it relates to such Guarantor or the Parent Guarantor, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally.

SECTION 14.03 RELEASE OF GUARANTEES.

With respect to an applicable series of Securities, a Subsidiary Guarantee shall terminate and be of no further force or effect and such Guarantor shall be deemed to be released from all obligations under this Article Fourteen: (1) at such time as such Guarantor ceases to have outstanding or Guarantee any Specified Indebtedness; (2) upon the Company's exercise of its Defeasance option or Covenant Defeasance option with respect to an applicable series of Securities in accordance with Article Thirteen; (3) upon the discharge of the Company's obligations under this Indenture with respect to an applicable series of Securities pursuant to Article Four; or (4) as specified in a supplemental indenture to this Indenture. The Guarantor shall deliver to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for in this Indenture relating to such release have been complied with.

With respect to an applicable series of Securities, the Parent Guarantee shall terminate and be of no further force or effect and the Parent Guarantor shall be automatically and unconditionally released and discharged from all obligations under this Article Fourteen, and no further action by the Parent Guarantor or the Company shall be required for the termination and release of the Parent Guarantee of such series of Securities: (1) upon the Company delivering to the Trustee an Officers' Certificate, confirming ongoing compliance by the Company of Section 7.04 of this Indenture; (2) upon any merger or consolidation of the Parent Guarantor with the Company; (3) upon the Company's exercise of its Defeasance option or Covenant Defeasance option with respect to an applicable series of Securities in accordance with Article Thirteen; (4) upon the discharge of the Company's obligations under this Indenture with respect to an applicable series of Securities pursuant to Article Four; (5) upon payment in

full of the aggregate principal amount of all Securities of an applicable series then outstanding and all other applicable Guaranteed Obligations under the Parent Guarantee then due and owing; or (6) as specified in a supplemental indenture to this Indenture.

At the written request of the Company, the Trustee shall execute and deliver any documents reasonably required in order to evidence such release, discharge and termination in respect of the applicable Subsidiary Guarantee or the Parent Guarantee.

SECTION 14.04 SUBSIDIARY GUARANTORS MAY CONSOLIDATE, ETC., ONLY ON CERTAIN TERMS.

No Guarantor may sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person), another Person, other than the Company or another Guarantor, unless:

(1) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(2) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the obligations of that Guarantor under this Indenture (including its Subsidiary Guarantee) pursuant to agreements reasonably satisfactory to the Trustee.

SECTION 14.05 PARENT GUARANTOR MAY CONSOLIDATE, ETC., ONLY ON CERTAIN TERMS.

The Parent Guarantor may not sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not the Parent Guarantor is the surviving Person), another Person, other than the Company or a Guarantor, unless:

(1) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(2) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the obligations of the Parent Guarantor under this Indenture (including its Parent Guarantee) pursuant to agreements reasonably satisfactory to the Trustee.

SECTION 14.06 SUCCESSORS AND ASSIGNS.

This Article Fourteen shall be binding upon each of the Guarantors and the Parent Guarantor and its successors and assigns and shall inure to the benefit of the successors and assigns of the Trustee and the Holders and, in the event of any transfer or assignment of rights by any Holder or the Trustee, the rights and privileges conferred upon that party in this Indenture and in the Securities shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions of this Indenture.

SECTION 14.07 NO WAIVER.

Neither a failure nor a delay on the part of either the Trustee or the Holders in exercising any right, power or privilege under this Article Fourteen shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the Holders herein expressly specified are cumulative and not exclusive of any other rights, remedies or benefits which either may have under this Article Fourteen at law, in equity, by statute or otherwise.

SECTION 14.08 MODIFICATION.

No modification, amendment or waiver of any provision of this Article Fourteen, nor the consent to any departure by any Guarantor or the Parent Guarantor therefrom, shall in any event be effective unless in compliance with Article Nine of this Indenture, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any Guarantor or the Parent Guarantor in any case shall entitle such Guarantor or the Parent Guarantor to any other or further notice or demand in the same, similar or other circumstances.

SECTION 14.09 EXECUTION OF SUPPLEMENTAL INDENTURE FOR FUTURE SUBSIDIARY GUARANTORS.

Each Subsidiary which is required to become a Guarantor pursuant to Section 10.09 shall promptly execute and deliver to the Trustee a supplemental indenture pursuant to which such Subsidiary shall become a Guarantor under this Article Fourteen and shall guarantee the Guaranteed Obligations. Concurrently with the execution and delivery of such supplemental indenture, the Company shall deliver to the Trustee an Opinion of Counsel and an Officers' Certificate to the effect that such supplemental indenture has been duly authorized, executed and delivered by such Subsidiary and that, subject to the application of bankruptcy, insolvency, moratorium, fraudulent conveyance or transfer and other similar laws relating to creditors' rights generally and to the principles of equity, whether considered in a proceeding at law or in equity, the Subsidiary Guarantee of such Guarantor is a legal, valid and binding obligation of such Guarantor, enforceable against such Guarantor in accordance with its terms and to such other matters as the Trustee may reasonably request.

[Signature pages follow]

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

O&M HALYARD, INC.

By: _____

Name:

Title:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____

Name:

Title:

[Signature Page — Indenture]

PARENT GUARANTOR:

OWENS & MINOR, INC.

By: _____

Name:

Title:

SUBSIDIARY GUARANTORS:

OWENS & MINOR DISTRIBUTION, INC.

By: _____

Name:

Title:

OWENS & MINOR MEDICAL, INC.

By: _____

Name:

Title:

BARISTA ACQUISITION I, LLC

By: _____

Name:

Title:

BARISTA ACQUISITION II, LLC

By: _____

Name:

Title:

[Signature Page — Indenture]

December 12, 2017

Owens & Minor, Inc.
9120 Lockwood Boulevard
Mechanicsville, Virginia 23116

Ladies and Gentlemen:

We have acted as counsel to Owens & Minor Inc., a Virginia corporation (the “Company”), and the subsidiaries of the Company listed on Schedule I hereto (the “Subsidiaries”) in connection with the Registration Statement on Form S-3 (the “Registration Statement”) filed by the Company and the Subsidiaries with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Securities Act”), relating to (i) debt securities of the Company and/or one or more of the Subsidiaries (in such capacity, a “Debt Securities Issuer”), which may be either senior debt securities (the “Senior Debt Securities”) or subordinated debt securities (the “Subordinated Debt Securities”) (collectively, the “Debt Securities”); (ii) guarantees by the Company (in such capacity, the “Parent Guarantor”) and/or the Subsidiaries (collectively in such capacity, the “Subsidiary Guarantors,” and together with the Parent Guarantor, the “Guarantors”) to be issued in connection with the Debt Securities (the “Guarantees”); (iii) shares of common stock of the Company, par value \$2.00 per share (the “Common Stock”); (iv) shares of preferred stock of the Company, par value \$100.00 per share (the “Preferred Stock”); (v) depositary shares (the “Depositary Shares”) evidenced by depositary receipts (the “Depositary Receipts”) representing interests in a number of shares of Preferred Stock of the Company, or a fraction thereof; (vi) contracts for the purchase and sale of Common Stock (the “Purchase Contracts”); (vii) warrants to purchase Common Stock, Preferred Stock, Debt Securities or any combination of the foregoing (the “Warrants”); and (viii) units consisting of one or more of the

foregoing Securities (as defined below) in any combination (the “Units”). The Debt Securities, the Guarantees, the Common Stock, the Preferred Stock, the Depository Shares and related Depository Receipts, the Purchase Contracts, the Warrants and the Units are hereinafter referred to collectively as the “Securities.” The Securities may be issued and sold or delivered from time to time as set forth in the Registration Statement, any amendment thereto, the prospectus contained therein (the “Prospectus”) and supplements to the Prospectus and pursuant to Rule 415 under the Securities Act in an indeterminate amount.

The Debt Securities of the Company and the Guarantees thereof, if any, will be issued under supplemental indentures or officers’ certificates (the “Company Supplemental Indentures”) among the Company, the Subsidiary Guarantors and U.S. Bank National Association, as trustee (the “Trustee”), to the indenture among the Company, the Subsidiary Guarantors and the Trustee (the “Company Base Indenture” and, as amended and supplemented by the Company Supplemental Indentures, the “Company Indenture”).

The Debt Securities of the Subsidiaries and the Guarantees thereof, if any, will be issued under supplemental indentures or officers’ certificates (the “Subsidiary Supplemental Indentures”) among the Subsidiaries, the Parent Guarantor and the Trustee, to the indenture among the Subsidiaries, the Parent Guarantor and the Trustee (the “Subsidiary Base Indenture” and, as amended and supplemented by the Subsidiary Supplemental Indentures, the “Subsidiary Indenture” and together with the Company Indenture, the “Indentures”).

The Depository Shares and related Depository Receipts, if any, will be issued pursuant to one or more deposit agreements (each, a “Deposit Agreement”) to be entered into between the Company and a depository as shall be named therein (the “Depository”).

The Purchase Contracts, if any, will be issued pursuant to one or more purchase contract agreements (each, a “Purchase Contract Agreement”) to be entered into between the Company and such purchase contract agent as shall be named therein.

The Warrants, if any, will be issued under one or more warrant agreements (each, a “Warrant Agreement”) to be entered into among the Company, any applicable Subsidiaries, in the case of Warrants relating to Debt Securities, and such warrant agent as shall be named therein.

The Units, if any, will be issued pursuant to one or more unit agreements (each, a “Unit Agreement”) to be entered into among the Company, any applicable Subsidiaries, in the case of Units relating to Debt Securities, and such unit agent as shall be named therein. The Indentures, Deposit Agreements, Purchase Contract Agreements, Warrant Agreements and Unit Agreements are hereinafter collectively referred to as the “Securities Agreements.”

We have examined the Registration Statement, the Amended and Restated Articles of Incorporation of the Company and the Amended and Restated Bylaws of the Company, and the forms of the Indentures (including the forms of Debt Securities and any Guarantees thereof set forth therein), each of which has been filed with the Commission or incorporated by reference as an exhibit to the Registration Statement. In addition, we have examined, and have relied as to matters of fact upon, originals, or duplicates or certified or conformed copies, of such records, agreements, documents and other instruments and such certificates or comparable documents of public officials and of officers and representatives of the Company and the Subsidiaries and have made such other investigations as we have deemed relevant and necessary in connection with the opinions hereinafter set forth.

In rendering the opinions set forth below, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as duplicates or certified or conformed copies, and the authenticity of the originals of such latter documents. We also have assumed that, at the time of execution, authentication, issuance and delivery of any of the Securities, the applicable Securities Agreement will be the valid and legally binding obligation of all parties thereto other than the Company and the Subsidiaries. We have also assumed that, with respect to the issuance of any shares of Common Stock or Preferred Stock, the amount of valid consideration paid in respect of such shares will equal or exceed the par value of such shares.

In rendering the opinions set forth below, we have assumed further that, at the time of execution, authentication, issuance and delivery of each of the applicable Securities Agreements and Securities, (1) the Company and each of the Subsidiaries, as applicable, is validly existing and in good standing under the law of the jurisdiction in which it is organized and such Securities Agreement will have been duly authorized, executed and delivered by the Company and each of the Subsidiaries, as applicable, in accordance with its organizational documents and the law of the jurisdiction in which it is organized, (2) the execution, delivery, issuance and performance by the Company and each of the Subsidiaries, as applicable, of such Securities Agreement and such Securities will not constitute a breach or violation of its organizational documents or violate the law of the jurisdiction in which it is organized or any other jurisdiction (except that no such assumption is made with respect to the law of the State of New York) and (3) the execution, delivery, issuance and performance by the Company and each of the Subsidiaries, as applicable, of such Securities Agreement and such Securities will not constitute a breach or default under any agreement or instrument which is binding upon the Company or any of the Subsidiaries.

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

1. With respect to any Debt Securities issued by any Debt Securities Issuer, assuming (a) the taking of all necessary corporate or limited liability company action, as applicable, by the board of directors or equivalent governing body of such Debt Securities Issuer or a duly constituted and acting committee of such board of directors or equivalent governing body or duly authorized officers of such Debt Securities Issuer (such board of directors or equivalent governing body, committee or authorized officers being referred to herein as the “Debt Authorizing Party”) to authorize and approve the issuance and terms of such Debt Securities and the terms of the offering thereof and (b) the due execution, authentication, issuance and delivery of such Debt Securities, upon payment therefor in accordance with the applicable definitive underwriting, purchase or similar agreement approved by the Debt Authorizing Party and otherwise in accordance with the provisions of such agreement and the applicable Indenture, such Debt Securities will constitute valid and legally binding obligations of such Debt Securities Issuer enforceable against such Debt Securities Issuer in accordance with their terms.

2. With respect to the Guarantees issued by any Guarantor, assuming (a) the taking of all necessary corporate or limited liability company action, as applicable, by the board of directors or equivalent governing body of such Guarantor or a duly constituted and acting committee of such board of directors or equivalent governing body or duly authorized officers of such Guarantor (such board of directors or equivalent governing body, committee or authorized officers being referred to herein as the “Guarantor Authorizing Party”) to authorize and approve the issuance and terms of the Guarantees and the terms of the offering thereof, (b) the due execution, authentication, issuance and delivery of the Debt Securities underlying such Guarantees, upon payment therefor in accordance with the applicable definitive underwriting, purchase or similar agreement approved by the Guarantor Authorizing Party and otherwise in accordance with the provisions of such agreement and the applicable Indenture and (c) the due issuance of such Guarantees, such Guarantees will constitute valid and legally binding obligations of such Guarantor enforceable against such Guarantor in accordance with their terms.

3. With respect to the Depositary Shares, assuming (a) the taking of all necessary corporate action by the board of directors of the Company or a duly constituted and acting committee thereof (such board of directors or committee thereof being referred to herein as the “Company Board”) to authorize and approve the issuance and delivery to the Depositary of the Preferred Stock represented by the Depositary Shares, the issuance and terms of the Depositary Shares and the terms of the offering thereof, (b) such Preferred Stock is validly issued, fully paid and nonassessable and (c) the due execution, issuance and delivery of the Depositary Receipts evidencing the Depositary Shares against deposit of the Preferred Stock in accordance with the Deposit Agreement, upon payment therefor in accordance with the applicable definitive underwriting, purchase or similar agreement

approved by the Company Board and otherwise in accordance with the provisions of such agreement and such Deposit Agreement, the depositary receipts evidencing the Depositary Shares will represent legal and valid interests in such Preferred Stock and the Depositary Receipts will constitute valid evidence of such interests in such Preferred Stock.

4. With respect to the Purchase Contracts, assuming (a) the taking of all necessary corporate action by the Company Board to authorize and approve the issuance and terms of the Purchase Contracts and the terms of the offering thereof, the execution and delivery of the related Purchase Contract Agreement and (b) the due execution, issuance and delivery of the Purchase Contracts, upon payment therefor in accordance with the applicable definitive underwriting, purchase or similar agreement approved by the Company Board and otherwise in accordance with the provisions of such agreement and the applicable definitive Purchase Contract Agreement, the Purchase Contracts will constitute valid and legally binding obligations of the Company enforceable against the Company in accordance with their terms.

5. With respect to the Warrants, assuming (a) the taking of all necessary corporate or limited liability company action, as applicable, by the Company Board or, in the case of Warrants relating to Debt Securities, any applicable Debt Authorizing Party, to authorize and approve the issuance and terms of the Warrants and the terms of the offering thereof and (b) the due execution, issuance and delivery of such Warrants, upon payment therefor in accordance with the applicable definitive underwriting, purchase or similar agreement approved by the Company Board or, in the case of Warrants relating to Debt Securities, any applicable Debt Authorizing Party, and otherwise in accordance with the provisions of such agreement and the applicable definitive Warrant Agreement, such Warrants will constitute valid and legally binding obligations of the Company or any applicable Subsidiary enforceable against the Company or any such Subsidiary in accordance with their terms.

6. With respect to the Units, assuming (a) the taking of all necessary corporate action by the Company Board to authorize and approve the issuance and delivery to the Unit Agent of the Securities that are the subject of the Units, the issuance and terms of the Units and the terms of the offering thereof, (b) the Common Stock and Preferred Stock that are components of any Units are validly issued, fully paid and nonassessable and (c) the due execution, authentication, issuance and delivery, as applicable, of the Securities that are the subject of the Units, upon payment therefor in accordance with the applicable definitive underwriting, purchase or similar agreement approved by the Company Board and otherwise in accordance with the provisions of such agreement and the applicable definitive Securities Agreements, such Units will constitute valid and legally binding obligations of the Company enforceable against the Company in accordance with their terms.

Our opinions set forth in paragraphs 1 through 6 above are subject to the effects of (i) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, (ii) general equitable principles (whether considered in a proceeding in equity or at law) and (iii) an implied covenant of good faith and fair dealing.

In addition, we express no opinion as to the validity, legally binding effect or enforceability of Section 1.11 of each of the Indentures relating to the separability of provisions of the Indentures.

In rendering the opinions set forth in paragraphs 1 through 6 above, we have assumed that under the law of any country in whose currency (or whose currency is a component currency of a composite currency in which) any Debt Securities are denominated or payable, if other than in U.S. dollars, or of any other governmental authority having jurisdiction over any such currency, (A) no consent, approval, authorization qualification or order of, or filing or registration with, any governmental agency or body or court of such country is required for the issuance or sale of the Debt Securities by the Company or the Guarantees by the Guarantors and (B) the issuance or sale of the Debt Securities and compliance with the terms and provisions thereof will not result in a breach or violation of any of the terms or provisions of any statute, rule, regulation or order of any governmental agency or body or any court of such country. We note that (i) a New York State statute provides that, with respect to a foreign currency obligation, a court of the State of New York shall render a judgment or decree in such foreign currency and such judgment or decree shall be converted into currency of the United States at the rate of exchange prevailing on the date of entry of such judgment or decree and (ii) with respect to a foreign currency obligation, a U.S. federal court in New York may award judgment in U.S. dollars, provided that we express no opinion as to the rate of exchange such court would apply.

We do not express any opinion herein concerning any law other than the law of the State of New York.

We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Registration Statement and to the use of our name under the caption “Legal Matters” in the Prospectus included in the Registration Statement.

Very truly yours,

/s/ SIMPSON THACHER & BARTLETT LLP

SIMPSON THACHER & BARTLETT LLP

Schedule I

<u>Name</u>	<u>State of incorporation or organization</u>
Owens & Minor Distribution, Inc.	Virginia
Owens & Minor Medical, Inc.	Virginia
Barista Acquisition I, LLC	Virginia
Barista Acquisition II, LLC	Virginia
O&M Halyard, Inc.	Virginia



HUNTON & WILLIAMS LLP
 RIVERFRONT PLAZA, EAST TOWER
 951 EAST BYRD STREET
 RICHMOND, VIRGINIA 23219-4074

TEL 804 • 788 • 8200
 FAX 804 • 788 • 8218

FILE NO: 26333.193

December 12, 2017

Owens & Minor, Inc.
 9120 Lockwood Boulevard
 Mechanicsville, Virginia 23116

Owens & Minor, Inc.
Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as special Virginia counsel to Owens & Minor, Inc., a Virginia corporation (the “Company”), in connection with the preparation and filing by (i) the Company, (ii) Owens & Minor Distribution, Inc., a Virginia corporation (“OM Distribution”), (iii) Owens & Minor Medical, Inc., a Virginia corporation (“OM Medical”), (iv) O&M Halyard, Inc., a Virginia corporation (“OM Halyard”), (v) Barista Acquisition I, LLC, a Virginia limited liability company (“Barista I”), and (vi) Barista Acquisition II, a Virginia limited liability company (“Barista II” and together with OM Distribution, OM Medical, OM Halyard and Barista I, the “Subsidiary Registrants”), of a Registration Statement on Form S-3 (the “Registration Statement”) on or about December 12, 2017 with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Securities Act”). The Registration Statement relates to the registration of an indeterminate amount of (i) the Company’s or the Subsidiary Registrants’ debt securities, which may be either senior debt securities or subordinated debt securities (“Debt Securities”), (ii) guarantees of the Company’s Debt Securities by the Subsidiary Registrants and guarantees of the Subsidiary Registrants’ Debt Securities by the Company and the other Subsidiary Registrants (collectively, the “Debt Guarantees”), (iii) shares of the Company’s common stock, par value \$2.00 per share (“Common Stock”), (iv) shares of the Company’s preferred stock, par value \$10.00 per share (“Preferred Stock”), (v) depository shares evidenced by depository receipts representing interests in shares of Preferred Stock, or a fraction thereof, in any combination (“Depository Shares”), (vi) contracts to purchase shares of Common Stock (“Purchase Contracts”), (vii) warrants to purchase Debt Securities, shares of Common Stock, shares of Preferred Stock or any combination of the foregoing (“Warrants”) and (viii) units consisting of one or more of Debt Securities, Debt Guarantees, shares of Common Stock, shares of Preferred Stock, Depository Shares, Purchase Contracts or Warrants (“Units”). The Debt

ATLANTA AUSTIN BANGKOK BEIJING BRUSSELS CHARLOTTE DALLAS HOUSTON LONDON LOS ANGELES MIAMI NEW
 YORK NORFOLK RALEIGH RICHMOND SAN FRANCISCO TOKYO TYSONS WASHINGTON
www.hunton.com

Securities, Debt Guarantees, Common Stock, Preferred Stock, Depositary Shares, Purchase Contracts, Warrants and Units are collectively referred to herein as the "Securities" and each individually a "Security."

Any Debt Securities and any Debt Guarantees will be issued under one or more indentures (the "Indenture") among the Company, the Subsidiary Registrants and a bank or trust company to be selected by the Company, as trustee.

Any shares of Common Stock will be issued pursuant to the Company's Amended and Restated Articles of Incorporation (as may be amended from time to time, the "Articles of Incorporation") and any shares of Preferred Stock will be issued pursuant to articles of amendment to the Articles of Incorporation.

Any Depositary Shares, each evidenced by a deposit receipt (the "Deposit Receipt"), will be issued pursuant to a deposit agreement (the "Deposit Agreement") between the Company and a depositary to be named therein (the "Depositary").

Any Purchase Contracts will be issued pursuant to one or more purchase contract agreements (the "Purchase Contract Agreement") to be entered into between the Company and the purchase contract agent to be named therein.

Any Warrants will be issued by the Company pursuant to one or more warrant agreements (the "Warrant Agreement") to be entered into between the Company, any applicable Subsidiary Registrants (in the case of Warrants relating to Debt Securities), and the warrant agent to be named therein.

Any Units will be issued pursuant to one or more unit agreements (the "Unit Agreement") to be entered into between the Company, any applicable Subsidiary Registrants (in the case of Units relating to Debt Securities or Debt Guarantees), and the unit agent to be named therein.

The Securities are to be issued in one or more series and will be offered and sold on a continuous or delayed basis pursuant to Rule 415 under the Securities Act, from time to time as set forth in the Registration Statement, the prospectus contained therein (the "Prospectus") and any amendments or supplements thereto.

This opinion is being furnished in accordance with the requirements of Item 16 of Form S-3 and Item 601(b)(5)(i) of Regulation S-K.

In connection with the foregoing, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such records, certificates of officers of the Company and the Subsidiary Registrants and public officials and such other documents as we have deemed necessary for the purposes of rendering this opinion, including (i) the Articles of Incorporation, (ii) the Company's Amended and Restated Bylaws, as amended through the date hereof, (iii) the articles of incorporation, bylaws, certificates of formation and operating agreements, as applicable, of the Subsidiary Registrants, (iv) the resolutions adopted by the Company's Board of Directors on December 7, 2017, (v) the Registration Statement and (vi) certificates issued by the Clerk of the State Corporation Commission of the Commonwealth of Virginia (the "SCC") on the date hereof, to the effect that (a) each of the Company, OM Distribution, OM Medical and OM Halyard is validly existing under the laws of the Commonwealth of Virginia and in good standing and (b) each of Barista I and Barista II is validly existing under the laws of the Commonwealth of Virginia.

For purposes of the opinions expressed below, we have assumed (i) the authenticity of all documents submitted to us as originals, (ii) the conformity to the originals of all documents submitted as certified, photostatic or electronic copies and the authenticity of the originals thereof, (iii) the legal capacity of natural persons, (iv) the genuineness of all signatures and the completion of all deliveries not witnessed by us and (v) the due authorization, execution and delivery of all documents by all parties and the validity, binding effect and enforceability thereof.

As to factual matters, we have relied upon the documents furnished to us by the Company, the certificates and other comparable documents of officers and representatives of the Company and the Subsidiary Registrants, statements made to us in discussions with the Company's management and certificates of public officials, without independent verification of their accuracy.

We do not purport to express an opinion on any laws other than those of the Commonwealth of Virginia.

Based upon the foregoing and such other information and documents as we have considered necessary for the purposes hereof, and subject to the assumptions, qualifications and limitations stated herein, we are of the opinion that:

1. Each of the Company, OM Distribution, OM Medical and OM Halyard is a corporation validly existing and in good standing under the laws of the Commonwealth of Virginia.

2. Each of Barista I and Barista II is a limited liability company validly existing under the laws of the Commonwealth of Virginia.

3. With respect to any Debt Securities, the Company and the Subsidiary Registrants have the corporate or limited liability company power and authority, as applicable, to authorize the applicable Indenture and any supplemental indenture or officers' certificate thereto and the issuance and sale of such Debt Securities and, when the Board of Directors of the Company or a duly constituted and acting committee thereof (such Board of Directors or committee being hereinafter referred to as the "Board") or the board of directors or sole member of the Subsidiary Registrants, as applicable, or a duly constituted and acting committee thereof (such board of directors, sole member or committee being hereinafter referred to as a "Subsidiary Board") has taken all necessary corporate or limited liability action, as applicable, to authorize and approve the applicable Indenture and any supplemental indenture or officers' certificate thereto and the issuance and sale of the such Debt Securities, the Company and the Subsidiary Registrants will have the corporate or limited liability company power and authority, as applicable, to execute and deliver the applicable Indenture and any supplement thereto and to execute, issue and deliver the related Debt Securities.

4. With respect to any Debt Guarantees, the Company and Subsidiary Registrants have the corporate or limited liability company power and authority, as applicable, to authorize the applicable Indenture and any supplemental indenture or officers' certificate thereto (or other document evidencing such Debt Guarantees) and the issuance and sale of such Debt Guarantees and, when the Board or the Subsidiary Board, as applicable, has taken all necessary corporate or limited liability company action, as applicable, to authorize and approve the applicable Indenture and any supplemental indenture or officers' certificate thereto (or other document evidencing such Debt Guarantee) and the issuance and sale of such Debt Guarantees, the Company and the Subsidiary Registrants will have the corporate or limited liability company power and authority, as applicable, to execute and deliver the applicable Indenture and any supplemental indenture or officers' certificate thereto (or other document evidencing such Debt Guarantees) and to execute, issue and deliver such Debt Guarantees.

5. With respect to any shares of Common Stock, when (a) the Board has taken all necessary corporate action to authorize and approve the issuance of shares of Common Stock from the then authorized number of shares of Common Stock available and (b) such shares of Common Stock have been duly issued by the Company and delivered either (i) in accordance with the applicable definitive purchase, underwriting or similar agreement approved by the Board upon payment of the consideration therefor or (ii) upon conversion or exercise of any other Security, in accordance with the terms of such Security or the instrument governing such Security providing for such conversion or exercise as approved by the Board, for the consideration approved by the Board, such Common Stock will be validly issued, fully paid and nonassessable.

6. With respect to any series of shares of Preferred Stock, when (a) the Board has taken all necessary corporate action to authorize and approve the issuance and terms of any series of shares of Preferred Stock from the then authorized number of shares of Preferred Stock available, (b) articles of amendment to the Articles of Incorporation creating the particular series of Preferred Stock have been filed with the SCC and the SCC has issued a certificate of amendment with respect thereto, (c) the certificates representing the shares of Preferred Stock have been duly executed, countersigned and registered and (d) the series of Preferred Stock has been duly issued by the Company and delivered either (i) in accordance with the applicable definitive purchase, underwriting or similar agreement approved by the Board upon payment of the consideration therefor or (ii) upon conversion or exercise of any other Security, in accordance with the terms of such Security or the instrument governing such Security providing for such conversion or exercise as approved by the Board, for the consideration approved by the Board, such shares of Preferred Stock will be validly issued, fully paid and nonassessable.

7. With respect to any Depositary Shares, when (a) the Board has taken all necessary corporate action to authorize and approve the issuance and terms of any series of Depositary Shares, (b) the Deposit

Agreement to be entered into in connection with the issuance of any Depositary Shares has been duly authorized, executed and delivered by the Company and the Depositary, (c) the underlying shares of Preferred Stock have been validly issued as described above in paragraph 6, (d) the Depositary has duly issued the Deposit Receipts evidencing the Depositary Shares against deposit of the Preferred Shares in respect thereof in accordance with the Deposit Agreement and (e) the Deposit Receipts have been duly executed, issued and delivered by the Depositary in accordance with the Deposit Agreement and the applicable definitive purchase, underwriting or similar agreement approved by the Board upon payment of the consideration therefor, the Deposit Shares will be validly issued, fully paid and nonassessable.

8. With respect to any Purchase Contracts, the Company has the corporate power and authority to authorize the applicable Purchase Contract Agreement and the issuance and sale of such Purchase Contracts and, when the Board has taken all necessary corporate action to authorize and approve the applicable Purchase Contract Agreement and the issuance and sale of such Purchase Contracts, the Company will have the corporate power and authority to execute and deliver the applicable Purchase Contract Agreement and to execute, issue and deliver such Purchase Contracts.

9. With respect to any Warrants, the Company and the Subsidiary Registrants (in the case of Warrants relating to Debt Securities) have the corporate or limited liability company power and authority, as applicable, to authorize the applicable Warrant Agreement and the issuance and sale of such Warrants and, when the Board or the Subsidiary Board (in the case of Warrants relating to Debt Securities), as applicable, has taken all necessary corporate or limited liability company action, as applicable, to authorize and approve the applicable Warrant Agreement and the issuance and sale of such Warrants, the Company and the Subsidiary Registrants (in the case of Warrants relating to Debt Securities) will have the corporate or limited liability company power and authority, as applicable, to execute and deliver the applicable Warrant Agreement and to execute, issue and deliver such Warrants.

10. With respect to any Units, the Company and the Subsidiary Registrants (in the case of Units relating to Debt Securities or Debt Guarantees) have the corporate or limited liability company power and authority, as applicable, to authorize the applicable Unit Agreement and the issuance and sale of such Units and, when the Board or the Subsidiary Board (in the case of Units relating to Debt Securities or Debt Guarantees), as applicable, has taken all necessary corporate or limited liability company action, as applicable, to authorize and approve the applicable Unit Agreement and the issuance and sale of such Units, the Company and the Subsidiary Registrants (in the case of Units relating to Debt Securities or Debt Guarantees) will have the corporate or limited liability company power and authority, as applicable, to execute and deliver the applicable Unit Agreement and to execute, issue and deliver such Units.

For purposes of the opinions set forth above, we have also assumed that (i) each of the Company, OM Distribution, OM Medical and OM Halyard will be validly existing and in good standing under the laws of the Commonwealth of Virginia and (ii) each of Barista I and Barista II will be validly existing at the time of authorization and of issuance of the applicable Security.

We hereby consent to the filing of this opinion with the Commission as an exhibit to the Registration Statement and the reference to our firm under the heading "Legal Matters" in the Prospectus included in the Registration Statement. In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the Securities Act and the rules and regulations of the Commission promulgated thereunder.

This opinion is expressly limited to the matters set forth above and we render no opinion, whether by implication or otherwise, as to any other matters relating to the Company or the Securities. This opinion letter is rendered as of the date hereof, and we disclaim any obligation to advise you of facts, circumstances, events or developments that hereafter may be brought to our attention and that may alter, affect or modify the opinions expressed herein.

Very truly yours,

/s/ Hunton & Williams LLP

Computation of Ratios of Earnings to Fixed Charges*(in thousands, except ratios)*

	Nine Months Ended September 30, 2017	Year Ended December 31,				
		2016	2015	2014 ⁽²⁾	2013	2012
<i>Computation of "Earnings":</i>						
Income from continuing operations before income taxes	\$ 75,806	\$ 172,542	\$ 173,211	\$ 126,483	\$ 184,985	\$ 183,357
Add:						
Interest expense, including amortization of debt issuance costs	22,452	27,464	27,802	33,493	13,469	14,265
Portion of rents representative of the interest factor	18,620	24,029	24,310	25,881	25,569	20,261
Earnings, as adjusted	\$ 116,878	\$ 224,035	\$ 225,323	\$ 185,857	\$ 224,024	\$ 217,883
<i>Computation of "Fixed Charges":</i>						
Interest expense, including amortization of debt issuance costs	22,452	27,464	27,802	33,493	13,469	14,265
Portion of rents representative of the interest factor	18,620	24,029	24,310	25,881	25,569	20,261
Fixed Charges	\$ 41,072	\$ 51,493	\$ 52,112	\$ 59,374	\$ 39,038	\$ 34,526
Ratio of Earnings to Fixed Charges ⁽¹⁾	2.8x	4.4x	4.3x	3.1x	5.7x	6.3x

(1) As there were no shares of preferred stock outstanding for the periods presented, the ratios of earnings to combined fixed charges and preferred stock dividends do not differ from the ratio of earnings to fixed charges presented above.

(2) Fixed charges include \$14.9 million (\$17.4 million redemption premium less \$2.5 million gain on interest swaps), both associated with the retirement of all of our \$200 million aggregate principal amount of 6.35% senior notes in 2014.

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Owens & Minor, Inc.:

We consent to the use of our reports dated February 17, 2017, with respect to the consolidated balance sheets of Owens & Minor, Inc. and subsidiaries as of December 31, 2016 and 2015, and the related consolidated statements of income, comprehensive income, changes in shareholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2016, and the effectiveness of internal control over financial reporting incorporated by reference herein and to the reference to our firm under the heading "Experts" in the prospectus.

/s/ KPMG LLP

Richmond, Virginia
December 12, 2017

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM T-1

**STATEMENT OF ELIGIBILITY UNDER
THE TRUST INDENTURE ACT OF 1939
OF A CORPORATION DESIGNATED TO ACT AS TRUSTEE**

Check if an Application to Determine Eligibility of a Trustee Pursuant to Section 305(b)(2)

U.S. BANK NATIONAL ASSOCIATION

(Exact name of Trustee as specified in its charter)

31-0841368

I.R.S. Employer Identification No.

800 Nicollet Mall
Minneapolis, Minnesota
(Address of principal executive offices)

55402
(Zip Code)

Elizabeth A. Boyd
U.S. Bank National Association
1021 East Cary Street, Suite 1850
Richmond, VA 23219
(804) 343-1564

(Name, address and telephone number of agent for service)

Owens & Minor, Inc.

(Issuer with respect to the Securities)

Virginia
(State or other jurisdiction of
incorporation or organization)

54-1701843
(I.R.S. Employer
Identification No.)

Owens & Minor Distribution, Inc.
Owens & Minor Medical, Inc.
Barista Acquisition I, LLC
Barista Acquisition II, LLC
O&M Halyard, Inc.

(Exact name of co-obligors as specified in
their charters)

Virginia
Virginia
Virginia
Virginia
Virginia

(State or other jurisdiction of
incorporation or organization)

54-2049200
54-1959151
82-1298510
82-1321407
82-3402664

(I.R.S. Employer
Identification No.)

9120 Lockwood Boulevard
Mechanicsville, VA
(Address of Principal Executive Offices)

23116
(Zip Code)

Debt Securities
Guarantees of Debt Securities
(Title of the Indenture Securities)

FORM T-1

Item 1. GENERAL INFORMATION . Furnish the following information as to the Trustee.

a) *Name and address of each examining or supervising authority to which it is subject.*

Comptroller of the Currency
Washington, D.C.

b) *Whether it is authorized to exercise corporate trust powers.*

Yes

Item 2. AFFILIATIONS WITH OBLIGOR. *If the obligor is an affiliate of the Trustee, describe each such affiliation.*

None

Items 3-15 *Items 3-15 are not applicable because to the best of the Trustee's knowledge, the obligor is not in default under any Indenture for which the Trustee acts as Trustee.*

Item 16. LIST OF EXHIBITS: *List below all exhibits filed as a part of this statement of eligibility and qualification.*

1. A copy of the Articles of Association of the Trustee.*
2. copy of the certificate of authority of the Trustee to commence business, attached as Exhibit 2.
3. A copy of the certificate of authority of the Trustee to exercise corporate trust powers, attached as Exhibit 3.
4. A copy of the existing bylaws of the Trustee.**
5. A copy of each Indenture referred to in Item 4. Not applicable.
6. The consent of the Trustee required by Section 321(b) of the Trust Indenture Act of 1939, attached as Exhibit 6.
7. Report of Condition of the Trustee as of September 30, 2017 published pursuant to law or the requirements of its supervising or examining authority, attached as Exhibit 7.

* Incorporated by reference to Exhibit 25.1 to Amendment No. 2 to registration statement on S-4, Registration Number 333-128217 filed on November 15, 2005.

** Incorporated by reference to Exhibit 25.1 to registration statement on form S-3ASR, Registration Number 333-199863 filed on November 5, 2014.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the Trustee, U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Richmond, Commonwealth of Virginia on the 12th of December, 2017.

By: /s/ Elizabeth A. Boyd
Elizabeth A. Boyd
Vice President

CERTIFICATE OF CORPORATE EXISTENCE

I, Keith A. Noreika, Acting Comptroller of the Currency, do hereby certify that:

1. The Comptroller of the Currency, pursuant to Revised Statutes 324, et seq, as amended, and 12 USC 1, et seq, as amended, has possession, custody, and control of all records pertaining to the chartering, regulation, and supervision of all national banking associations.
2. "U.S. Bank National Association," Cincinnati, Ohio (Charter No. 24), is a national banking association formed under the laws of the United States and is authorized thereunder to transact the business of banking on the date of this certificate.

IN TESTIMONY WHEREOF, today,
June 7, 2017, I have hereunto subscribed
my name and caused my seal of office to
be affixed to these presents at the U.S.
Department of the Treasury, in the City
of Washington, District of Columbia.



Acting Comptroller of the Currency



CERTIFICATION OF FIDUCIARY POWERS

I, Keith A. Noreika, Acting Comptroller of the Currency, do hereby certify that:

1. The Office of the Comptroller of the Currency, pursuant to Revised Statutes 324, et seq, as amended, and 12 USC 1, et seq, as amended, has possession, custody, and control of all records pertaining to the chartering, regulation, and supervision of all national banking associations.
2. "U.S. Bank National Association," Cincinnati, Ohio (Charter No. 24), was granted, under the hand and seal of the Comptroller, the right to act in all fiduciary capacities authorized under the provisions of the Act of Congress approved September 28, 1962, 76 Stat. 668, 12 USC 92a, and that the authority so granted remains in full force and effect on the date of this certificate.

IN TESTIMONY WHEREOF, today,
June 7, 2017, I have hereunto subscribed my
name and caused my seal of office to be
affixed to these presents at the U.S.
Department of the Treasury, in the City of
Washington, District of Columbia.



Acting Comptroller of the Currency



Exhibit 6

CONSENT

In accordance with Section 321(b) of the Trust Indenture Act of 1939, the undersigned, U.S. BANK NATIONAL ASSOCIATION hereby consents that reports of examination of the undersigned by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Dated: December 12, 2017

By: /s/ Elizabeth A. Boyd

Elizabeth A. Boyd
Vice President

Exhibit 7
U.S. Bank National Association
Statement of Financial Condition
As of 9/30/2017

(\$000's)

	<u>9/30/2017</u>
Assets	
Cash and Balances Due From Depository Institutions	\$ 20,502,653
Securities	110,797,206
Federal Funds	24,647
Loans & Lease Financing Receivables	277,953,611
Fixed Assets	4,538,527
Intangible Assets	12,820,876
Other Assets	25,614,306
Total Assets	\$452,251,826
Liabilities	
Deposits	\$353,914,855
Fed Funds	992,263
Treasury Demand Notes	0
Trading Liabilities	989,885
Other Borrowed Money	31,965,947
Acceptances	0
Subordinated Notes and Debentures	3,300,000
Other Liabilities	14,438,977
Total Liabilities	\$405,601,927
Equity	
Common and Preferred Stock	18,200
Surplus	14,266,915
Undivided Profits	31,565,657
Minority Interest in Subsidiaries	799,127
Total Equity Capital	\$ 46,649,899
Total Liabilities and Equity Capital	\$452,251,826

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM T-1

**STATEMENT OF ELIGIBILITY
UNDER THE TRUST INDENTURE ACT OF 1939
OF A CORPORATION DESIGNATED TO ACT AS TRUSTEE**

Check if an Application to Determine Eligibility of a Trustee Pursuant to Section 305(b)(2)

U.S. BANK NATIONAL ASSOCIATION

(Exact name of Trustee as specified in its charter)

31-0841368

I.R.S. Employer Identification No.

800 Nicollet Mall
Minneapolis, Minnesota
(Address of principal executive offices)

55402
(Zip Code)

Elizabeth A. Boyd
U.S. Bank National Association
1021 East Cary Street, Suite 1850
Richmond, VA 23219
(804) 343-1564

(Name, address and telephone number of agent for service)

O&M Halyard, Inc.

(Issuer with respect to the Securities)

Virginia
(State or other jurisdiction of
incorporation or organization)

82-3402664
(I.R.S. Employer
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Owens & Minor, Inc.
Owens & Minor Distribution, Inc.
Owens & Minor Medical, Inc.
Barista Acquisition I, LLC
Barista Acquisition II, LLC

(Exact name of co-obligors as specified
in their charters)

Virginia
Virginia
Virginia
Virginia
Virginia

(State or other jurisdiction of
incorporation or organization)

54-1701843
54-2049200
54-1959151
82-1298510
82-1321407

(I.R.S. Employer
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Mechanicsville, VA
(Address of Principal Executive Offices)

23116
(Zip Code)

Debt Securities
Guarantees of Debt Securities
(Title of the Indenture Securities)

FORM T-1

Item 1. GENERAL INFORMATION . Furnish the following information as to the Trustee.

- a) *Name and address of each examining or supervising authority to which it is subject.*
Comptroller of the Currency
Washington, D.C.
- b) *Whether it is authorized to exercise corporate trust powers.*
Yes

Item 2. AFFILIATIONS WITH OBLIGOR. *If the obligor is an affiliate of the Trustee, describe each such affiliation.*
None

Items 3-15 *Items 3-15 are not applicable because to the best of the Trustee's knowledge, the obligor is not in default under any Indenture for which the Trustee acts as Trustee.*

Item 16. LIST OF EXHIBITS: *List below all exhibits filed as a part of this statement of eligibility and qualification.*

- 1. A copy of the Articles of Association of the Trustee.*
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- 3. A copy of the certificate of authority of the Trustee to exercise corporate trust powers, attached as Exhibit 3.
- 4. A copy of the existing bylaws of the Trustee.**
- 5. A copy of each Indenture referred to in Item 4. Not applicable.
- 6. The consent of the Trustee required by Section 321(b) of the Trust Indenture Act of 1939, attached as Exhibit 6.
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SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the Trustee, U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, has duly caused this statement of eligibility and qualification to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Richmond, Commonwealth of Virginia on the 12th of December, 2017.

By: /s/ Elizabeth A. Boyd
Elizabeth A. Boyd
Vice President



CERTIFICATE OF CORPORATE EXISTENCE

I, Keith A. Noreika, Acting Comptroller of the Currency, do hereby certify that:

1. The Comptroller of the Currency, pursuant to Revised Statutes 324, et seq, as amended, and 12 USC 1, et seq, as amended, has possession, custody, and control of all records pertaining to the chartering, regulation, and supervision of all national banking associations.
2. "U.S. Bank National Association," Cincinnati, Ohio (Charter No. 24), is a national banking association formed under the laws of the United States and is authorized thereunder to transact the business of banking on the date of this certificate.

IN TESTIMONY WHEREOF, today, June 7, 2017, I have hereunto subscribed my name and caused my seal of office to be affixed to these presents at the U.S. Department of the Treasury, in the City of Washington, District of Columbia.

Acting Comptroller of the Currency





CERTIFICATION OF FIDUCIARY POWERS

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2. "U.S. Bank National Association," Cincinnati, Ohio (Charter No. 24), was granted, under the hand and seal of the Comptroller, the right to act in all fiduciary capacities authorized under the provisions of the Act of Congress approved September 28, 1962, 76 Stat. 668, 12 USC 92a, and that the authority so granted remains in full force and effect on the date of this certificate.

IN TESTIMONY WHEREOF, today, June 7, 2017, I have hereunto subscribed my name and caused my seal of office to be affixed to these presents at the U.S. Department of the Treasury, in the City of Washington, District of Columbia.

Acting Comptroller of the Currency



Exhibit 6

CONSENT

In accordance with Section 321(b) of the Trust Indenture Act of 1939, the undersigned, U.S. BANK NATIONAL ASSOCIATION hereby consents that reports of examination of the undersigned by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Dated: December 12, 2017

By: /s/ Elizabeth A. Boyd

Elizabeth A. Boyd
Vice President

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Total Equity Capital	\$ 46,649,899
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