

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

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

**CVR ENERGY, INC.**

(and the subsidiaries identified below in the Table of Additional Registrant Guarantors)  
(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**61-1512186**

(I.R.S. Employer  
Identification Number)

**2277 Plaza Drive, Suite 500  
Sugar Land, Texas 77479  
(281) 207-3200**

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

**Melissa M. Buhrig  
Executive Vice President, General Counsel and Secretary  
2277 Plaza Drive, Suite 500  
Sugar Land, Texas 77479  
(281) 207-3200**

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

**Copy to:  
Clinton W. Rancher  
Eileen S. Boyce  
Baker Botts L.L.P.  
910 Louisiana Street  
Houston, Texas 77002  
(713) 229-1234**

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

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

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

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

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

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

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

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

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

**Table of Additional Registrant Guarantors**

The additional registrants listed below may guarantee the Debt Securities:

<b>Exact name of additional registrant guarantor as specified in its charter*</b>	<b>State or other jurisdiction of incorporation or organization</b>	<b>I.R.S. Employer Identification No.</b>
Coffeyville Resources Crude Transportation, LLC	Delaware	20-0466180
Coffeyville Resources Pipeline, LLC	Delaware	20-0466161
Coffeyville Resources Refining & Marketing, LLC	Delaware	20-0465932
Coffeyville Resources Terminal, LLC	Delaware	20-0466222
Common Assets Holdco, LLC	Delaware	88-1567974
Common Services Holdco, LLC	Delaware	88-1652785
CVR CHC, LP	Delaware	88-1782277
CVR Common Assets CVL, LLC	Delaware	88-1675673
CVR Common Assets WYN, LLC	Delaware	88-1626762
CVR Common Services, LLC	Delaware	88-1735266
CVR Energy Holdings, Inc.	Delaware	20-0691675
CVR FHC, LP	Delaware	88-2130176
CVR Refining GP, LLC	Delaware	90-0889628
CVR Refining, LLC	Delaware	90-0889775
CVR Refining, LP	Delaware	37-1702463
CVR Refining CVL, LLC	Delaware	88-1864324
CVR Refining WYN, LLC	Delaware	88-2036712
CVR Renewables, LLC	Delaware	37-1702463
CVR Renewables CVL, LLC	Delaware	86-3981149
CVR Renewables WYN, LLC	Delaware	88-1695575
CVR RHC, LP	Delaware	88-2154789
CVR Services, LLC	Delaware	20-0691675
CVR Supply & Trading, LLC	Delaware	88-1987264
Renewable Assets Holdco, LLC	Delaware	88-1756983
Wynnewood Energy Company, LLC	Delaware	84-0964517
Wynnewood Refining Company, LLC	Delaware	84-1313011

\* The address and telephone number of each additional registrant guarantor's principal executive office is 2277 Plaza Drive, Suite 500 Sugar Land, Texas 77479, telephone (281) 207-3200. The agent for service for each additional registrant guarantor is Melissa M. Buhrig, Executive Vice President, General Counsel and Secretary, CVR Energy, Inc., 2277 Plaza Drive, Suite 500, Sugar Land, Texas 77479, telephone (281) 207-3200.



## **CVR Energy, Inc.**

**Common Stock**

**Preferred Stock**

**Rights**

**Debt Securities**

**Guarantees of Debt Securities**

**Warrants**

**Depository Shares**

**Purchase Contracts**

**Purchase Units**

**Units**

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We may offer and sell from time to time, together or separately, in one or more offerings, any combination of the securities listed above. The securities we may offer may be convertible into or exercisable or exchangeable for other securities. We may offer and sell these securities from time to time in amounts, at prices and on terms to be determined by market conditions and other factors at the time of the offerings. We may offer and sell these securities to or through one or more underwriters, dealers and agents, or directly to one or more purchasers, on a continuous or delayed basis. The prospectus supplement for each offering of securities will describe in detail the plan of distribution.

This prospectus provides you with a general description of these securities and the general manner in which we will offer and sell the securities. Each time we offer and sell securities under this prospectus, we will provide a prospectus supplement that will contain specific information about the terms of that offering and the securities being offered. A prospectus supplement also may add, update or change information contained in this prospectus. You should carefully read this prospectus and any applicable prospectus supplement before you invest in any of our securities.

Our common stock is listed on the New York Stock Exchange under the symbol "CVI." On August 4, 2022, the last reported sale price for our common stock was \$31.31 per share.

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**Investing in our securities involves risks. You should carefully review the risks and uncertainties described under the heading "Risk Factors" contained on page 3 herein and in any applicable prospectus supplement and under similar headings in the other documents incorporated by reference in this prospectus.**

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**NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

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The date of this prospectus is August 5, 2022

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement on Form S-3 that we have filed with the Securities and Exchange Commission (the “SEC”) using an “automatic shelf” registration process. Under this process, we may offer and sell from time to time, together or separately, in one or more offerings, any combination of the securities described in this prospectus.

This prospectus provides you with a general description of us and the securities offered under this prospectus. Each time we offer to sell securities under this prospectus, we will provide a prospectus supplement that will contain specific information about the terms of that offering and the securities being offered. A prospectus supplement also may add, update or change information in this prospectus. If there is any inconsistency between the information in this prospectus and any prospectus supplement, you should rely on the information in that prospectus supplement. You should read carefully this prospectus, the related exhibits filed with the SEC, any prospectus supplement and the additional information described below under the heading “Where You Can Find More Information.”

This prospectus contains summaries of certain provisions contained in some of the documents described herein, but reference is made to the actual documents for complete information. All of the summaries are qualified in their entirety by reference to the actual documents. For additional information about our business, operations and financial results, please read the documents incorporated by reference herein under the heading “Where You Can Find More Information.”

Unless otherwise indicated or the context otherwise requires, all references in this prospectus to “CVR Energy,” the “Company,” “we,” “us,” or “our” relate to CVR Energy, Inc. and include our subsidiaries, including CVR Partners, LP, a publicly traded limited partnership engaged in the nitrogen fertilizer manufacturing business (“CVR Partners”). In the “Description of Capital Stock,” “Description of Debt Securities and Guarantees,” “Description of Warrants,” “Description of Depositary Shares,” “Description of Purchase Contracts and Purchase Units” and “Description of Units” sections of this prospectus, however, references to “Company,” “we,” “us,” or “our” relate only to CVR Energy, Inc. and do not include any of our subsidiaries.

**We have not authorized anyone to provide any information or to make any representations other than those contained or incorporated by reference in this prospectus and any written communication prepared by us or on our behalf. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. If anyone provides you with different or inconsistent information, you should not rely on it. You should not assume that the information in this prospectus is accurate as of any date other than the date on the cover page of this prospectus or that the information incorporated by reference in this prospectus is accurate as of any date other than the date of the document incorporated by reference. Our business, financial condition, results of operations and prospects may have changed since those dates. This prospectus and any prospectus supplement constitute an offer to sell only under circumstances and in jurisdictions where it is lawful to do so.**

## **ABOUT CVR ENERGY**

CVR Energy is a diversified holding company formed in September 2006 which is primarily engaged in the renewables and petroleum refining and marketing businesses, as well as in the nitrogen fertilizer manufacturing business through its holdings in CVR Partners.

Our common stock is listed on the New York Stock Exchange (“NYSE”) under the symbol “CVI,” and CVR Partners’ common units are listed on the NYSE under the symbol “UAN.” As of August 1, 2022, Icahn Enterprises L.P. and its affiliates owned approximately 71% of our outstanding common stock.

Our principal executive offices are located at 2277 Plaza Drive, Suite 500, Sugar Land, Texas 77479, and our telephone number is (281) 207-3200. Our website address is [www.cvrenergy.com](http://www.cvrenergy.com). The information contained on, or that can be accessed through, our website is not part of, and is not incorporated into, this prospectus. For further discussion of the material elements of our business, please refer to our most recent Annual Report on Form 10-K and any subsequent reports we file with the SEC, which are incorporated by reference in this prospectus.

## **ABOUT THE SUBSIDIARY GUARANTORS**

Certain of our subsidiaries (other than CVR Partners and its subsidiaries) may jointly and severally, fully and unconditionally, guarantee our payment obligations under any series of debt securities offered by this prospectus. Financial information concerning our guarantor subsidiaries and non-guarantor subsidiaries, if any, is included in our consolidated financial statements filed as a part of our periodic reports filed pursuant to the Securities Exchange Act of 1934, as amended (the “Exchange Act”), to the extent required by the rules and regulations of the SEC.

Additional information concerning our subsidiaries and us is included in reports and other documents incorporated by reference in this prospectus. Please read “Where You Can Find More Information.”

**RISK FACTORS**

Investing in our securities involves significant risks. Before making a decision whether to invest in our securities, you should consider the risks described under “Risk Factors” and elsewhere in our most recent Annual Report on Form 10-K and any subsequently filed periodic and current reports that are incorporated by reference in this prospectus, and those risk factors that may be included in any applicable prospectus supplement. These risks are not the only risks that we face. This prospectus also contains forward-looking statements that involve risks and uncertainties. Please read “Forward-Looking Statements.” Our actual results could differ materially from those anticipated in the forward-looking statements as a result of certain factors, including the risks described elsewhere in this prospectus or any prospectus supplement and in the documents incorporated by reference in this prospectus or any prospectus supplement. If any of these risks occur, our business, financial condition or results of operations could be adversely affected. In that case, the trading price of our securities could decline, and you could lose all or part of your investment.

## FORWARD-LOOKING STATEMENTS

This prospectus and the statements incorporated by reference herein include forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Exchange Act. These forward-looking statements are subject to a number of risks and uncertainties, many of which are beyond our control. All statements other than statements of historical fact, including without limitation, statements regarding future operations, financial position, estimated revenues and losses, growth, capital projects, stock or unit repurchases, impacts of legal proceedings, projected costs, prospects, plans and objectives of management are forward-looking statements. The words “could,” “believe,” “anticipate,” “intend,” “estimate,” “expect,” “may,” “continue,” “predict,” “potential,” “project,” and similar terms and phrases are intended to identify forward-looking statements.

Although we believe our assumptions concerning future events are reasonable, a number of risks, uncertainties, and other factors could cause actual results and trends to differ materially from those projected or forward-looking. Forward-looking statements, as well as certain risks, contingencies or uncertainties that may impact our forward-looking statements, include but are not limited to the following:

- volatile margins in the refining industry and exposure to the risks associated with volatile crude oil, refined product and feedstock prices;
- the availability of adequate cash and other sources of liquidity for the capital needs of our businesses;
- the severity, magnitude, duration, and impact of the novel coronavirus 2019 and any variant thereof (collectively, “COVID-19”) pandemic and of businesses’ and governments’ responses to such pandemic on our operations, personnel, commercial activity, and supply and demand across our and our customers’ and suppliers’ businesses;
- changes in market conditions and market volatility arising from the COVID-19 pandemic, inflation or potential economic recession, including crude oil and other commodity prices, demand for those commodities, storage and transportation capacities, and the impact of such changes on our operating results and financial position;
- expectations regarding our business and the economic recovery relating to the COVID-19 pandemic, including beliefs regarding future customer activity and the timing of the recovery;
- the ability to forecast our future financial condition, results of operations, revenues and expenses;
- the effects of transactions involving forward or derivative instruments;
- changes in laws, regulations and policies with respect to the export of crude oil, refined products, other hydrocarbons or renewable feedstocks or products including, without limitation, the actions of the Biden Administration that impact oil and gas operations in the United States;
- interruption in pipelines supplying feedstocks or distributing the petroleum business’ products;
- competition in the petroleum and nitrogen fertilizer businesses, including potential impacts of domestic and global supply and demand and/or domestic or international duties, tariffs, or similar costs;
- capital expenditures;
- changes in our or our segments’ credit profiles;
- the cyclical and seasonal nature of the petroleum and nitrogen fertilizer businesses;
- the supply, availability and price levels of essential raw materials and feedstocks, and the effects of inflation thereupon;
- our production levels, including the risk of a material decline in those levels;
- accidents or other unscheduled shutdowns or interruptions affecting our facilities, machinery, or equipment, or those of our suppliers or customers;



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- existing and future laws, regulations or rulings, including but not limited to those relating to the environment, climate change, renewables, safety, security and/or the transportation or production of hazardous chemicals like ammonia, including potential liabilities or capital requirements arising from such laws, regulations or rulings;
- potential operating hazards from accidents, fire, severe weather, tornadoes, floods, or other natural disasters;
- the impact of weather on commodity supply and/or pricing and on the nitrogen fertilizer business including our ability to produce, market or sell fertilizer products profitability or at all;
- rulings, judgments or settlements in litigation, tax or other legal or regulatory matters;
- the dependence of the nitrogen fertilizer business on customers and distributors including to transport goods and equipment;
- the reliance on, or the ability to procure economically or at all, pet coke for our nitrogen fertilizer business purchases from Coffeyville Resources Refining & Marketing, LLC (“CRRM”) and third-party suppliers or the natural gas, electricity, oxygen, nitrogen, sulfur processing and compressed dry air and other products purchased from third parties by the nitrogen fertilizer and petroleum businesses;
- risks associated with third party operation of or control over important facilities necessary for operation of our refineries and nitrogen fertilizer facilities;
- risks of terrorism, cybersecurity attacks, and the security of chemical manufacturing facilities and other matters beyond our control;
- political disturbances, geopolitical instability and tensions, and associated changes in global trade policies and economic sanctions, including, but not limited to, in connection with Russia’s invasion of Ukraine in February 2022 and any ongoing conflicts in the region;
- our lack of diversification of assets or operating and supply areas;
- the petroleum business’ and nitrogen fertilizer business’ dependence on significant customers and the creditworthiness and performance by counterparties;
- the potential loss of the nitrogen fertilizer business’ transportation cost advantage over its competitors;
- the potential inability to successfully implement our business strategies at all or on time and within our anticipated budgets, including significant capital programs or projects, turnarounds or renewable or carbon reduction initiatives at our refineries and fertilizer facilities, including pretreater, carbon sequestration, segregation of our renewables business and other projects;
- our ability to continue to license the technology used for our operations;
- our petroleum business’ purchase of, or ability to purchase, renewable identification numbers (“RINs”) on a timely and cost effective basis or at all;
- the impact of refined product demand, declining inventories, and weather events on refined product prices and crack spreads;
- Organization of Petroleum Exporting Countries’ production levels and pricing;
- the impact of RINs pricing, our blending and purchasing activities and governmental actions, including by the U.S. Environmental Protection Agency on our RIN obligations, open RINs positions, small refinery exemptions, and our estimated consolidated cost to comply with our Renewable Fuel Standard obligations;
- our businesses’ ability to obtain, retain or renew environmental and other governmental permits, licenses or authorizations necessary for the operation of its business;
- our ability to successfully complete our restructuring initiative and the benefits thereof;

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- existing and proposed laws, regulations or rulings, including but not limited to those relating to climate change, alternative energy or fuel sources, and existing and future regulations related to the end-use of our products or the application of fertilizers;
- Environmental, Social and Governance (“ESG”) issues, including but not limited to, compliance with ESG-related recommendations or directives and risks or impacts relating thereto, whether from regulators, rating agencies, lenders, investors, litigants, customers, vendors, the public or others;
- refinery and nitrogen fertilizer facilities’ operating hazards and interruptions, including unscheduled maintenance or downtime and the availability of adequate insurance coverage;
- risks related to services provided by or competition among our subsidiaries, including conflicts of interests and control of CVR Partners’ general partner;
- instability and volatility in the capital, credit and commodities markets and in the global economy, including due to the ongoing Russia-Ukraine conflict;
- restrictions in our debt agreements;
- asset impairments and impacts thereof;
- the variable nature of CVR Partners’ distributions, including the ability of its general partner to modify or revoke its distribution policy, or to cease making cash distributions on its common units;
- changes in tax and other laws, regulations and policies, including, without limitation, actions of the Biden Administration that impact conventional fuel operations or favor renewable energy projects in the United States;
- changes in CVR Partners’ treatment as a partnership for United States federal income or state tax purposes; and
- our ability to recover under our insurance policies for damages or losses in full or at all.

Additional important risks, uncertainties and other factors are described in “Risk Factors” in Part I, Item 1A in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021, which is incorporated by reference herein.

We caution you not to place undue reliance on the forward-looking statements. All forward-looking statements contained in this prospectus only speak as of the date of this prospectus. We do not undertake any obligation to publicly update or revise any forward-looking statements to reflect events or circumstances that occur after the date of this prospectus, or to reflect the occurrence of unanticipated events, except to the extent required by law.

All forward-looking statements, expressed or implied, included in this prospectus are expressly qualified in their entirety by this cautionary statement. This cautionary statement should also be considered in connection with any subsequent written or oral forward-looking statements that we or persons acting on our behalf may issue. We urge you to carefully review and consider the disclosures made in this prospectus and our reports filed with the SEC and incorporated by reference herein that attempt to advise interested parties of the risks and factors that may affect our business. Please read “Where You Can Find More Information.”

## USE OF PROCEEDS

Unless we inform you otherwise in a prospectus supplement, we anticipate using any net proceeds we receive from the sale of our securities offered by this prospectus for general corporate purposes. These purposes may include, but are not limited to:

- working capital;
- capital expenditures;
- acquisitions; and
- the repayment, refinancing, redemption or repurchase of indebtedness or other securities.

Any specific allocation of the net proceeds we receive from an offering of securities to a specific purpose will be determined at the time of the offering and will be described in the applicable prospectus supplement. Pending any specific application, we may initially invest funds in short-term marketable securities.

## DESCRIPTION OF CAPITAL STOCK

Our authorized capital stock consists of 350,000,000 shares of common stock, par value \$0.01 per share, and 50,000,000 shares of preferred stock, par value \$0.01 per share, the rights and preferences of which may be established from time to time by our board of directors. As of August 1, 2022, there were 100,530,599 outstanding shares of common stock and no outstanding shares of preferred stock.

The following description of our capital stock does not purport to be complete and is subject to and qualified by our amended and restated certificate of incorporation, as amended and restated on October 16, 2007 and as subsequently amended on June 15, 2018 (our “certificate of incorporation”), and our second amended and restated bylaws, as amended on June 15, 2018 (our “bylaws”), which are included as exhibits to the registration statement of which this prospectus forms a part, and by the provisions of applicable Delaware law.

### Common Stock

Holders of our common stock are entitled to one vote for each share on all matters voted upon by our stockholders, including the election of directors, and do not have cumulative voting rights. Subject to the rights of holders of any then outstanding shares of our preferred stock, our common stockholders are entitled to any dividends that may be declared by our board of directors. Holders of our common stock are entitled to share ratably in our net assets upon our dissolution or liquidation after payment or provision for all liabilities and any preferential liquidation rights of our preferred stock then outstanding. Holders of our common stock have no preemptive rights to purchase shares of our capital stock. The shares of our common stock are not subject to any redemption provisions and are not convertible into any other shares of our capital stock. All outstanding shares of our common stock are fully paid and nonassessable. The rights, preferences and privileges of holders of our common stock will be subject to those of the holders of any shares of our preferred stock we may issue in the future.

### Preferred Stock

Our board of directors may, from time to time, authorize the issuance of one or more series of preferred stock without stockholder approval. Subject to the provisions of our certificate of incorporation and limitations prescribed by law, our board of directors is authorized from time to time to adopt resolutions to issue one or more series of preferred stock, designate the series, establish the number of shares constituting any series, change the number of shares constituting any series, and provide or change the voting powers, preferences and relative participating, optional and other special rights, and any qualifications, limitations or restrictions on shares of our preferred stock, including dividend rights, terms of redemption, conversion rights and liquidation preferences, in each case without any action or vote by our stockholders.

One of the effects of undesignated preferred stock may be to enable our board of directors to discourage an attempt to obtain control of our company by means of a tender offer, proxy contest, merger or otherwise. The issuance of preferred stock may adversely affect the rights of our common stockholders by, among other things:

- restricting dividends on the common stock;
- diluting the voting power of the common stock;
- decreasing the market price of the common stock;
- impairing the liquidation rights of the common stock; or
- delaying or preventing a change in control without further action by the stockholders.

### Limitation on Liability and Indemnification of Officers and Directors

Our certificate of incorporation limits the liability of directors to the fullest extent permitted by Delaware law. The effect of these provisions is to eliminate the rights of our company and our stockholders, through stockholders’ derivative suits on behalf of our company, to recover monetary damages against a director for breach of fiduciary duty as a director, including breaches resulting from grossly negligent behavior. However, our directors will be personally liable to us and our stockholders for any breach of the director’s duty of loyalty, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, under Section 174 of the Delaware General Corporation Law or for any transaction from which the director derived an

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improper personal benefit. In addition, our certificate of incorporation and bylaws provide that we will indemnify our directors and officers to the fullest extent permitted by Delaware law. Our board of directors has approved a form of indemnification agreement for our directors and officers, and expects that each of its current and future directors and officers will enter into substantially similar indemnification agreements. We also maintain directors and officers insurance for certain claims that could be asserted against our directors and officers.

### **Delaware Anti-Takeover Law**

Our certificate of incorporation provides that we are not subject to Section 203 of the Delaware General Corporation Law which regulates corporate acquisitions. This law provides that specified persons who, together with affiliates and associates, own, or within three years did own, 15% or more of the outstanding voting stock of a corporation may not engage in business combinations with the corporation for a period of three years after the date on which the person became an interested stockholder. The law defines the term “business combination” to include mergers, asset sales and other transactions in which the interested stockholder receives or could receive a financial benefit on other than a pro rata basis with other stockholders.

### **Removal of Directors; Vacancies**

Our certificate of incorporation and bylaws provide that any director or the entire board of directors may be removed with or without cause by the affirmative vote of the majority of all shares then entitled to vote at an election of directors. Our certificate of incorporation and bylaws also provide that any vacancies on our board of directors will be filled by the affirmative vote of a majority of the board of directors then in office, even if less than a quorum, or by a sole remaining director.

### **Voting**

The affirmative vote of a plurality of the shares of our common stock present, in person or by proxy will decide the election of any directors, and the affirmative vote of a majority of the shares of our common stock present, in person or by proxy will decide all other matters voted on by stockholders, unless the question is one upon which, by express provision of law, under our certificate of incorporation, or under our bylaws, a different vote is required, in which case such provision will control.

### **Action by Written Consent**

Our bylaws provide that stockholder action can be taken by written consent of the stockholders if a consent in writing, setting forth the action to be taken, has been signed by the holders of outstanding shares having not less than the minimum number of shares that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

### **Ability to Call Special Meetings**

Our bylaws provide that special meetings of our stockholders can only be called pursuant to a resolution adopted by a majority of our board of directors or by the chairman of our board of directors.

### **Amending Our Certificate of Incorporation and Bylaws**

Our certificate of incorporation provides that our certificate of incorporation may be amended by the affirmative vote of a majority of the board of directors and by the affirmative vote of the majority of all shares of our common stock then entitled to vote at any annual or special meeting of stockholders. In addition, our certificate of incorporation and bylaws provide that our bylaws may be amended, repealed or new bylaws may be adopted by the affirmative vote of a majority of the board of directors or by the affirmative vote of the majority of all shares of our common stock then entitled to vote at any annual or special meeting of stockholders.

### **Advance Notice Provisions for Stockholders**

In order to nominate directors to our board of directors or bring other business before an annual meeting of our stockholders, a stockholder’s notice in proper form must be received by the Secretary of the Company at the principal executive offices of the Company not later than the close of business on the 90<sup>th</sup> calendar day, and no earlier than the 120<sup>th</sup> calendar day, prior to the anniversary of the previous year’s annual meeting of stockholders, subject to certain exceptions contained in our bylaws. If no annual meeting was held in the

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previous year, or if the date of the applicable annual meeting was changed by more than 30 days from the date of the previous year's annual meeting, then a stockholder's notice, to be considered timely, must be delivered to the Secretary of the Company at the principal executive offices of the Company not later than the close of business on the later of the 90<sup>th</sup> calendar day prior to such annual meeting or the tenth day following the day on which notice of the date of the annual meeting was mailed or a public announcement of such date was first made.

**Listing**

Our common stock is listed on the NYSE under the symbol "CVI."

**Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company, LLC.

## DESCRIPTION OF RIGHTS

We may issue rights to purchase any combination of common stock, preferred stock or other securities. These rights may be issued independently or together with any other security offered hereby and may or may not be transferable by the stockholder receiving the rights in such offering.

The rights will be issued under rights agreements to be entered into between us and a bank or trust company, as rights agent. The rights agent will act solely as our agent in connection with the certificates representing the rights and will not assume any obligation or relationship of agency or trust with any holders of rights certificates or beneficial owners of rights. You should read the particular terms of the rights, which will be described in more detail in any applicable prospectus supplement. The particular terms of any rights offered by any prospectus supplement, and the extent to which the general provisions summarized below may apply to the offered securities, will be described in a prospectus supplement.

Any applicable prospectus supplement will describe the terms of rights we offer, the rights agreement relating to the rights and the certificates representing the rights, including the following:

- the title of the rights and the aggregate number outstanding;
- the date of determining the stockholders entitled to the rights distribution;
- the number of rights issued or to be issued to each stockholder;
- the exercise price payable for each share of common stock, preferred stock or other securities upon the exercise of the rights;
- the number and terms of the shares of common stock, preferred stock or other securities which may be purchased per each right;
- the extent to which the rights are transferable;
- the date on which the holder's ability to exercise the rights shall commence, and the date on which the rights shall expire;
- the extent to which the rights may include an over-subscription privilege with respect to unsubscribed securities;
- if applicable, the material terms of any standby underwriting or purchase arrangement entered into by us in connection with the offering of such rights; and
- any other terms of the rights, including the terms, procedures, conditions and limitations relating to the exchange and exercise of the rights.

## DESCRIPTION OF DEBT SECURITIES AND GUARANTEES

The debt securities that we may offer by this prospectus consist of notes, debentures, or other evidences of indebtedness of CVR Energy, which we refer to as “debt securities.” We may issue the debt securities under one or more separate indentures between us and U.S. Bank Trust Company, National Association, as Trustee (each an “Indenture”).

We have summarized the provisions of the Indenture and the debt securities below. You should read the Indenture for more details regarding the provisions described below and for other provisions that may be important to you. We have filed the form of Indenture as an exhibit to the registration statement, and we will include the applicable final indenture and any other instrument establishing the terms of any debt securities we offer as exhibits to a filing we will make with the SEC in connection with that offering. Please read “Where You Can Find More Information.”

The debt securities will represent our unsecured general obligations, unless otherwise provided in the applicable prospectus supplement. As indicated in the applicable prospectus supplement, the debt securities will either be senior debt securities or subordinated debt securities, and may have the benefit of guarantees (each, a “guarantee”) by one or more of our existing or future subsidiaries (each, a “guarantor”) specified in the prospectus supplement for the series of such debt securities. Unless otherwise expressly stated or the context otherwise requires, as used in this section, the term “guaranteed debt securities” means debt securities that, as described in the prospectus supplement relating thereto, are guaranteed by one or more guarantors pursuant to the applicable indenture.

The provisions of the Indenture will generally be applicable to all of the debt securities. Selected provisions of the Indenture are described in this prospectus. Additional or different provisions that are applicable to a particular series of debt securities will, if material, be described in a prospectus supplement relating to the offering of debt securities of that series. These provisions may include, among other things and to the extent applicable, the following:

- the title of the debt securities;
- the extent, if any, to which the debt securities are subordinated in right of payment to our other indebtedness;
- any limit on the aggregate principal amount of the debt securities;
- the persons to whom any interest on the debt securities will be payable, if other than the registered holders thereof on the regular record date therefor;
- the date or dates on which the principal of the debt securities will be payable;
- the rate or rates at which the debt securities will bear interest, if any, and the date or dates from which interest will accrue;
- the dates on which interest will be payable and the regular record dates for interest payment dates;
- the place or places where the principal of and any premium and interest on the debt securities will be payable;
- the period or periods, if any, within which, and the price or prices at which, the debt securities may be redeemed, in whole or in part, at our option;
- our obligation, if any, to redeem or purchase the debt securities pursuant to sinking fund or similar provisions and the terms and conditions of any such redemption or purchase;
- the denominations in which the debt securities will be issuable, if other than denominations of \$2,000 and any integral multiple of \$1,000 in excess thereof;
- the currency, currencies or currency units, if other than currency of the United States of America, in which payment of the principal of and any premium or interest on the debt securities will be payable, and the terms and conditions of any elections that may be made available with respect thereto;
- any index or formula used to determine the amount of payments of principal of and any premium or interest on the debt securities;



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- whether the debt securities are to be issued in whole or in part in the form of one or more global securities and, if so, the identity of the depositary, if any, for the global securities;
- the terms and conditions, if any, pursuant to which the debt securities are convertible into or exchangeable for the common stock or other securities of CVR Energy or any other person;
- the principal amount (or any portion of the principal amount) of the debt securities which will be payable upon any declaration of acceleration of the maturity of the debt securities pursuant to an event of default;
- whether the debt securities will be guaranteed by any guarantors, and if so, the identity of the guarantors and, to the extent the terms thereof differ from those described in this prospectus, a description of the terms of the guarantees;
- the applicability to the debt securities of the provisions described in “—Defeasance” below; and
- any other terms applicable to that series in accordance with the Indenture, which could be different from those described in this prospectus.

We may issue debt securities at a discount from their stated principal amount. Federal income tax considerations and other special considerations applicable to any debt security issued with original issue discount may be described in an applicable prospectus supplement.

If the purchase price of any series of the debt securities is payable in a foreign currency or currency unit or if the principal of or any premium or interest on any series of the debt securities is payable in a foreign currency or currency unit, the restrictions, elections, general tax considerations, specific terms, and other information with respect to the debt securities and the applicable foreign currency or currency unit will be set forth in an applicable prospectus supplement.

Unless otherwise indicated in an applicable prospectus supplement:

- the debt securities will be issued only in fully registered form (without coupons) in denominations of \$2,000 and any integral multiples of \$1,000 in excess thereof; and
- payment of principal, premium, if any, and interest on the debt securities will be payable, and the exchange, conversion, and transfer of debt securities will be registrable, at our office or agency maintained for those purposes and at any other office or agency maintained for those purposes. No service charge will be made for any registration of transfer or exchange of the debt securities, but we may require payment of a sum sufficient to cover any tax or other governmental charge imposed in connection therewith.

### **Form of Debt Securities**

We will issue each debt security only in registered form, without coupons, unless we specify otherwise in the applicable prospectus supplement. In addition, we will issue each debt security in global (i.e., book-entry) form only, unless we specify otherwise in the applicable prospectus supplement. Debt securities in book-entry form will be represented by a global security registered in the name of a depositary, which will be the holder of all the debt securities represented by the global security. Those who own beneficial interests in a global debt security will do so through participants in the depositary’s securities clearance system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depositary and its participants. References to “holders” in this section mean those who own debt securities registered in their own names, on the books that we or the Trustee maintain for this purpose, and not those who own beneficial interests in debt securities registered in street name or in debt securities issued in book-entry form through one or more depositaries.

### ***Book-Entry Procedures***

Unless otherwise indicated in the prospectus supplement, the following is a summary of the depositary arrangements applicable to debt securities issued in global form and for which the Depository Trust Company (“DTC”) acts as a depositary. We have provided the following descriptions of the operations and procedures of DTC, Euroclear System (“Euroclear”) and Clearstream Banking, société anonyme (“Clearstream”) solely as a matter of convenience. These operations and procedures are solely within the control of DTC, Euroclear and

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Clearstream and are subject to change by them from time to time. None of we, any guarantor, any underwriters or the Trustee takes any responsibility for these operations or procedures, and you are urged to contact DTC, Euroclear or Clearstream or their respective participants directly to discuss these matters.

Each global debt security will be deposited with, or on behalf of, DTC, as depository, or its nominee, and registered in the name of a nominee of DTC. Except under the limited circumstances described below, global debt securities are not exchangeable for definitive certificated debt securities.

Ownership of beneficial interests in a global debt security is limited to institutions that have accounts with DTC or its nominee, or persons that may hold interests through those participants. In addition, ownership of beneficial interests by participants in a global debt security will be evidenced only by, and the transfer of that ownership interest will be effected only through, records maintained by DTC or its nominee for a global debt security.

Ownership of beneficial interests in a global debt security by persons that hold those interests through participants will be evidenced only by, and the transfer of that ownership interest within that participant will be effected only through, records maintained by that participant. DTC has no knowledge of the actual beneficial owners of the debt securities. Beneficial owners will not receive written confirmation from DTC of their purchase, but beneficial owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the participants through which the beneficial owners entered the transaction. The laws of some jurisdictions require that certain purchasers of securities take physical delivery of securities they purchase in definitive form. These laws may impair your ability to transfer beneficial interests in a global debt security.

We will make payment of principal of, and interest on, debt securities represented by a global debt security registered in the name of or held by DTC or its nominee to DTC or its nominee, as the case may be, as the registered owner and holder of the global debt security representing those debt securities. DTC has advised us that upon receipt of any payment of principal of, or interest on, a global debt security, DTC will immediately credit accounts of participants on its book-entry registration and transfer system with payments in amounts proportionate to their respective interests in the principal amount of that global debt security, as shown in the records of DTC. Payments by participants to owners of beneficial interests in a global debt security held through those participants will be governed by standing instructions and customary practices, as is now the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the sole responsibility of those participants, subject to any statutory or regulatory requirements that may be in effect from time to time.

Neither we, the Trustee nor any of our respective agents will be responsible for any aspect of the records of DTC, any nominee or any participant relating to, or payments made on account of, beneficial interests in a permanent global debt security or for maintaining, supervising or reviewing any of the records of DTC, any nominee or any participant relating to such beneficial interests.

A global debt security is exchangeable for definitive debt securities registered in the name of, and a transfer of a global debt security may be registered to, any person other than DTC or its nominee, only if:

- DTC notifies us that it is unwilling, unable or has ceased to be a clearing agency under the Exchange Act and we do not appoint another institution to act as depository within 90 days; or
- we notify the Trustee that we wish to terminate that global security.

Any global debt security that is exchangeable pursuant to the preceding sentence will be exchangeable in whole for definitive debt securities in registered form, of like tenor and of an equal aggregate principal amount as the global debt security, in denominations specified in the applicable prospectus supplement, if other than \$2,000 and multiples of \$1,000. The definitive debt securities will be registered by the registrar in the name or names instructed by DTC. We expect that these instructions may be based upon directions received by DTC from its participants with respect to ownership of beneficial interests in the global debt security.

Except as provided above, owners of the beneficial interests in a global debt security will not be entitled to receive physical delivery of debt securities in definitive form and will not be considered the holders of debt securities for any purpose under the Indenture. No global debt security shall be exchangeable except for another global debt security of like denomination and tenor to be registered in the name of DTC or its nominee.

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Accordingly, each person owning a beneficial interest in a global debt security must rely on the procedures of DTC and, if that person is not a participant, on the procedures of the participant through which that person owns its interest, to exercise any rights of a holder under the global debt security or the Indenture.

We understand that, under existing industry practices, in the event that we request any action of holders, or an owner of a beneficial interest in a global debt security desires to give or take any action that a holder is entitled to give or take under the debt securities or the Indenture, DTC would authorize the participants holding the relevant beneficial interests to take that action. Additionally, those participants would authorize beneficial owners owning through those participants to give or take that action or would otherwise act upon the instructions of beneficial owners owning through them.

DTC has advised us that it is a limited-purpose trust company organized under the laws of the State of New York, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered under the Exchange Act. DTC was created to hold securities of its participants and to facilitate the clearance and settlement of transactions among its participants in securities through electronic book-entry changes in accounts of the participants. By doing so, DTC eliminates the need for physical movement of securities certificates. DTC’s participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is owned by a number of its participants and by the New York Stock Exchange, Inc. and NYSE Amex Equities. Access to DTC’s book-entry system is also available to others, such as banks, brokers, dealers, and trust companies that clear through or maintain a custodial relationship with a participant, either directly or indirectly. The rules applicable to DTC and its participants are on file with the SEC.

Investors may hold interests in the debt securities outside the United States through the Euroclear or Clearstream if they are participants in those systems, or indirectly through organizations that are participants in those systems. Euroclear and Clearstream will hold interests on behalf of their participants through customers’ securities accounts in Euroclear’s and Clearstream’s names on the books of their respective depositories, which in turn will hold such interests in customers’ securities accounts in the depositories’ names on the books of DTC.

Euroclear has advised us that it was created in 1968 to hold securities for participants of Euroclear (“Euroclear Participants”) and to clear and settle transactions between Euroclear Participants through simultaneous electronic book-entry delivery against payment, thereby eliminating the need for physical movement of certificates and any risk from lack of simultaneous transfers of securities and cash. Euroclear includes various other services, including securities lending and borrowing and interfaces with domestic markets in several countries. Euroclear is operated by the Euroclear S.A./N.V. (the “Euroclear Operator”), under contract with Euroclear Clearance Systems S.C., a Belgian cooperative corporation (the “Cooperative”). All operations are conducted by the Euroclear Operator, and all Euroclear securities clearance accounts and Euroclear cash accounts are accounts with the Euroclear Operator, not the Cooperative. The Cooperative establishes policy for Euroclear on behalf of Euroclear Participants. Euroclear Participants include banks (including central banks), securities brokers and dealers, and other professional financial intermediaries and may include any agents. Indirect access to Euroclear is also available to other firms that clear through or maintain a custodial relationship with a Euroclear Participant, either directly or indirectly.

Securities clearance accounts and cash accounts with the Euroclear Operator are governed by the Terms and Conditions Governing Use of Euroclear, the related Operating Procedures of Euroclear, and applicable Belgian law (collectively, the “Terms and Conditions”). The Terms and Conditions govern transfers of securities and cash within Euroclear, withdrawals of securities and cash within Euroclear, withdrawals of securities and cash from Euroclear, and receipts of payments with respect to securities in Euroclear. All securities in Euroclear are held on a fungible basis without attribution of specific certificates to specific securities clearance accounts. The Euroclear Operator acts under the Terms and Conditions only on behalf of Euroclear Participants and has no record of or relationship with persons holding through Euroclear Participants.

Distributions with respect to debt securities held beneficially through Euroclear will be credited to the cash accounts of Euroclear Participants in accordance with the Terms and Conditions, to the extent received by the U.S. depository for Euroclear.

Clearstream has advised us that it is incorporated under the laws of Luxembourg as a professional depository. Clearstream holds securities for its participating organizations (“Clearstream Participants”) and

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facilitates the clearance and settlement of securities transactions between Clearstream Participants through electronic book-entry changes in accounts of Clearstream Participants, thereby eliminating the need for physical movement of certificates. Clearstream provides to Clearstream Participants, among other things, services for safekeeping, administration, clearance, and settlement of internationally traded securities and securities lending and borrowing. Clearstream interfaces with domestic markets in several countries. As a professional depository, Clearstream is subject to regulation by the Luxembourg Monetary Institute. Clearstream Participants are recognized financial institutions around the world, including agents, securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations and may include any agents. Indirect access to Clearstream is also available to others, such as banks, brokers, dealers, and trust companies that clear through or maintain a custodial relationship with a Clearstream Participant either directly or indirectly.

Distributions with respect to debt securities held beneficially through Clearstream will be credited to cash accounts of Clearstream Participants in accordance with its rules and procedures, to the extent received by the U.S. depository for Clearstream.

Secondary market trading between Euroclear Participants and Clearstream Participants will occur in the ordinary way in accordance with the applicable rules and operating procedures of Euroclear and Clearstream and will be settled using the procedures applicable to conventional eurobonds in immediately available funds.

Cross-market transfers between persons holding directly or indirectly through DTC, on the one hand, and directly or indirectly through Euroclear Participants or Clearstream Participants, on the other, will be effected within DTC in accordance with DTC's rules on behalf of the relevant European international clearing system by its U.S. depository; however, such cross-market transactions will require delivery of instructions to the relevant European international clearing system by the counterparty in such system in accordance with its rules and procedures and within its established deadlines (European time). The relevant European international clearing system will, if the transaction meets its settlement requirements, deliver instructions to its U.S. depository to take action to effect final settlement on its behalf by delivering or receiving debt securities in DTC, and making or receiving payment in accordance with normal procedures. Euroclear Participants and Clearstream Participants may not deliver instructions directly to their respective U.S. depositories.

Because of time-zone differences, credits of securities received in Euroclear or Clearstream as a result of a transaction with a DTC participant will be made during subsequent securities settlement processing and dated the business day following the DTC settlement date. Such credits, or any transactions in the securities settled during such processing, will be reported to the relevant Euroclear Participants or Clearstream Participants on that business day. Cash received in Euroclear or Clearstream as a result of sales of securities by or through a Euroclear Participant or a Clearstream Participant to a DTC participant will be received with value on the business day of settlement in DTC but will be available in the relevant Euroclear or Clearstream cash account only as of the business day following settlement in DTC.

Although DTC, Euroclear and Clearstream have agreed to the foregoing procedures in order to facilitate transfers of debt securities among participants of DTC, Euroclear and Clearstream, they are under no obligation to perform or continue to perform such procedures and they may discontinue the procedures at any time.

### **Certain Covenants**

#### ***Maintenance of Office or Agency***

We will be required to maintain an office or agency in the Borough of Manhattan, City of New York, or, if different, in each place of payment for each series of debt securities for notice and demand purposes and for the purposes of presenting or surrendering debt securities for payment, registration of transfer, or exchange.

#### ***Paying Agents***

If we act as our own paying agent with respect to any series of debt securities, on or before each due date of the principal of or interest on any of the debt securities of that series, we will be required to segregate and hold in trust for the benefit of the persons entitled to payment a sum sufficient to pay the amount due and to notify the Trustee promptly of our action or failure to act. If we have one or more paying agents for any series of debt securities, prior to each due date of the principal of or interest on any debt securities of that series, we will be required to deposit with a paying agent a sum sufficient to pay the amount due and, unless the paying agent is the Trustee, to promptly notify the Trustee of our action or failure to act. All moneys paid by us to a

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paying agent for the payment of principal of (or premium, if any) or interest on any debt securities that remain unclaimed for two years after the principal (or premium, if any) or interest has become due and payable may be repaid to us, and thereafter the holder of those debt securities may look only to us for payment thereof.

### ***Organizational Existence***

We will be required to preserve and keep in full force and effect our organizational existence, charter rights, statutory rights, licenses and franchises; provided that the Company shall not be required to preserve any such right, license or franchise if the Company shall determine that such preservation is no longer desirable in the conduct of the business of the Company.

### ***Compliance Certificate***

The Company will be required to file annually with the Trustee a certificate signed by two of its officers, stating whether or not the officers know of any default by the Company in compliance with any provision of the Indenture.

### ***Merger and Consolidation***

The Company will not consolidate with or merge with or into, or convey, transfer or lease all or substantially all its assets on a consolidated basis to, any Person, unless:

- (1) the resulting, surviving or transferee Person (the "Successor Company") will be a company, corporation, partnership, trust or limited liability company organized and existing under the laws of the United States of America, any State of the United States or the District of Columbia and the Successor Company (if not the Company) will expressly assume, by supplemental indenture, executed and delivered to the Trustee, all the obligations of the Company under the debt securities of any series and the Indenture; provided that if the Successor Company is not a corporation, a corporate wholly owned subsidiary organized under the laws of the United States of America, any State thereof or the District of Columbia shall become a co-issuer of such debt securities;
- (2) immediately after giving effect to such transaction, no event of default shall have occurred and be continuing; and
- (3) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel (as each is defined in the Indenture), each stating that such consolidation, merger, sale, conveyance, transfer or lease, and such supplemental indenture (if any), comply with the Indenture and that all conditions precedent provided for in the Indenture relating to such transaction have been complied with.

For purposes of the foregoing, the sale, lease, conveyance, transfer or other disposition of all or substantially all of the properties and assets of one or more subsidiaries of the Company, which properties and assets, if held by the Company instead of such subsidiaries, would constitute all or substantially all of the properties and assets of the Company on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company on a consolidated basis.

The predecessor Company will be released from its obligations under the Indenture and the Successor Company will succeed to, and be substituted for, and may exercise every right and power of, the Company under the Indenture, but, in the case of a lease of all or substantially all its assets, the predecessor Company will not be released from the obligation to pay the principal of and interest on the debt securities of any series.

### **No Protection in the Event of a Change of Control**

Unless we state otherwise in the applicable prospectus supplement, the debt securities will not contain any provisions which may afford holders of the debt securities protection in the event we have a change of control or in the event of a highly leveraged transaction (whether or not such transaction results in a change of control) which could adversely affect holders of debt securities.

**Events of Default**

The following are Events of Default under the Indenture with respect to debt securities of any series:

- (1) default in any payment of interest on any debt security of that series when due and the continuance of such default for a period of 30 days;
- (2) default in the payment of principal of or premium, if any, on any debt security of that series when due at its stated maturity or by declaration of acceleration, call for redemption or otherwise;
- (3) default in the deposit of any sinking fund payment, when and as due by the terms of a debt security of that series and continuance of such default for a period of 60 days;
- (4) default in the performance, or breach, of any covenant (other than a covenant or a default in whose performance or whose breach is elsewhere specifically dealt with as an Event of Default or which has been expressly included in the Indenture solely for the benefit of a series of debt securities other than that series) for a period of 90 days after written notice thereof has been given to us as provided in the Indenture;
- (5) specified events of bankruptcy, insolvency, or reorganization involving the Company; and
- (6) any other Event of Default provided with respect to debt securities of that series.

Pursuant to the Trust Indenture Act, the Trustee is required to give to the holders of the debt securities of that series notice of all defaults known to it within 90 days of the occurrence thereof, except that other than in the case of a default of the character contemplated in clause (1), (2), or (3) above, the Trustee may withhold notice if and so long as it in good faith determines that the withholding of notice is in the interests of the holders of the debt securities of that series.

If an Event of Default described in clause (5) above occurs, the principal of, and accrued interest, if any, on the debt securities of that series will become immediately due and payable without any declaration or other act on the part of the Trustee or any holder of the debt securities of that series. If any other Event of Default with respect to debt securities of any series occurs and is continuing, either the Trustee or the holders of at least 25% in principal amount of the debt securities of that series may declare the principal amount of, and accrued and unpaid interest, if any, on all debt securities of that series to be due and payable immediately. However, at any time after a declaration of acceleration with respect to debt securities of any series has been made, but before a judgment or decree based on such acceleration has been obtained, the holders of a majority in principal amount of the debt securities of that series may, under specified circumstances, rescind and annul such acceleration. Please read “- Amendments and Waivers” below.

Subject to the duty of the Trustee to act with the requisite standard of care during an Event of Default, the Trustee will be under no obligation to exercise any of the rights or powers under the Indenture at the request or direction of any holders of debt securities of any series unless such holders have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

Except to enforce the right to receive payment of principal, premium, if any, or interest when due, no holder may pursue any remedy with respect to the Indenture or the debt securities of any series unless:

- (1) such holder has previously given the Trustee notice of a continuing Event of Default with respect to the debt securities of that series;
- (2) holders of at least 25% in principal amount of the outstanding debt securities of such series have requested the Trustee to pursue the remedy in respect of such Event of Default;
- (3) such holders have offered the Trustee security or indemnity satisfactory to it against any loss, liability or expense;
- (4) the Trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity; and
- (5) the holders of a majority in principal amount of the outstanding debt securities of such series have not given the Trustee a direction that is inconsistent with such request within such 60-day period.

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Subject to certain restrictions, the holders of a majority in principal amount of the outstanding debt securities of any series are given the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. The Indenture provides that in the event an Event of Default has occurred and is continuing, the Trustee will be required in the exercise of its powers to use the degree of care that a prudent person would use in the conduct of its own affairs. The Trustee, however, may refuse to follow any direction that conflicts with law or the Indenture or that the Trustee determines is prejudicial to the rights of any other holder or that would involve the Trustee in personal liability. Prior to taking any action under the Indenture, the Trustee will be entitled to indemnification satisfactory to it in its sole discretion against all losses and expenses caused by taking or not taking such action.

Any additional Events of Default with respect to any series of debt securities, and any variations from the foregoing Events of Default applicable to any series of debt securities, will be described in an applicable 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 issued under the Indenture.

### **Subordination**

The prospectus supplement, if any, relating to any offering of subordinated debt securities will describe the specific subordination provisions, including the extent of subordination of payments by the Company of the principal of, premium, if any, on and interest on such subordinated debt securities.

### **Amendments and Waivers**

Subject to certain exceptions, the Indenture and the debt securities of any series may be amended or supplemented with the consent of the holders of not less than a majority in principal amount of all of the debt securities at the time outstanding (voting as a single class) or, if the amendment or supplement affects the debt securities of fewer than all of such series of debt securities, by the holders of not less than a majority in principal amount of all such series affected by the amendment or supplement, with the debt securities of all the affected series voting together as a single class for this purpose (including without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, such debt securities) and, subject to certain exceptions, any past default or compliance with any provisions may be waived with the consent of the holders of not less than a majority in principal amount of the debt securities at the time outstanding (voting as a single class) or, if the waiver of compliance with provisions affects the debt securities of fewer than all of such series of debt securities, by the holders of not less than a majority in principal amount of all such series affected by the waiver, with the debt securities of all the affected series voting together as a single class for this purpose (including waivers obtained in connection with a purchase of, or tender offer or exchange offer for, such debt securities). In addition, without the consent of any Holder, the Company and the Trustee may amend or supplement the Indenture or any series for certain purposes as set forth in the Indenture.

However, without the consent of each holder of an outstanding debt security affected, no amendment, supplement or waiver may, among other things:

- (1) reduce the percentage in principal amount of debt securities of such series whose holders must consent to an amendment;
- (2) reduce the stated rate of or extend the stated time for payment of interest on any such debt security;
- (3) reduce the principal of or extend the stated maturity of any such debt security;
- (4) reduce the premium payable upon the redemption or repurchase of any such debt security or change the time at which any such debt security may be redeemed or repurchased pursuant to the Indenture or any supplemental indenture;
- (5) change the place or currency of payment of principal of, or premium, if any, or interest on any such debt security;
- (6) impair the right of any holder to receive payment of principal, premium, if any, and interest on such holder's debt securities on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such holder's debt securities;

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- (7) release any guarantor from any of its obligations under its guarantee, except in accordance with the terms of the indenture or the debt securities for which such guarantor has provided a guarantee; or
- (8) make any change in the amendment provisions which require each holder's consent or in the waiver provisions for such securities.

The consent of the holders is not necessary under the Indenture to approve the particular form of any proposed amendment or supplement. It is sufficient if such consent approves the substance of the proposed amendment or supplement. A consent to any amendment, supplement or waiver under the Indenture by any holder of debt securities given in connection with a tender of such holder's debt securities will not be rendered invalid by such tender.

### **Satisfaction and Discharge**

The Indenture will be discharged and will cease to be of further effect as to all notes issued thereunder, when either:

- (1) all such notes that have been authenticated and delivered (except lost, stolen or destroyed notes that have been replaced or paid and notes for whose payment money has been deposited in trust) have been delivered to the Trustee for cancellation; or

- (2) (a) all such notes not theretofore delivered to the Trustee for cancellation:

- (i) have become due and payable by reason of the making of a notice of redemption or otherwise,
- (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 each case of (i), (ii) or (iii) above, has irrevocably deposited or caused to be deposited with such Trustee, as trust funds in trust solely for the benefit of the holders, cash in U.S. dollars, U.S. Government Obligations (as defined in the Indenture), or a combination thereof, in such amounts as will be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the notes not theretofore delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption, as the case may be;

- (b) the Company has paid or caused to be paid all sums payable by it with respect to the notes under the Indenture; and
- (c) the Company has delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the notes at maturity or the redemption date, as the case may be.

In addition, the Company will deliver to the Trustee an Officers' Certificate and an Opinion of Counsel (which Opinion of Counsel may be subject to customary assumptions and exclusions) each stating that all conditions precedent to satisfaction and discharge have been satisfied.

### **Defeasance**

The Company at any time may terminate all its and the guarantors' obligations under the debt securities of any series and the Indenture ("legal defeasance"), except for certain obligations, including those respecting the defeasance trust and obligations to register the transfer or exchange of such debt securities, to replace mutilated, destroyed, lost or stolen debt securities and to maintain a registrar and paying agent in respect of the debt securities of any series.

The Company may at any time terminate its and the guarantors' obligations to comply with certain covenants described above under "—Certain Covenants" and certain covenants of any outstanding series of debt securities that may be contained in any applicable prospectus supplement, and we may omit to comply with such covenants without creating an Event of Default ("covenant defeasance"). The Company may exercise its legal defeasance option notwithstanding its prior exercise of its covenant defeasance option.



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The applicable prospectus supplement will describe our ability to be released from any of our covenant obligations under the Indenture with respect to any series of debt securities.

In order to exercise either defeasance option, the Company must irrevocably deposit in trust (the “defeasance trust”) with the Trustee money or U.S. Government Obligations for the payment of principal, premium, if any, and interest on the debt securities of any series to redemption or maturity, as the case may be, and must comply with certain other conditions, including, without limitation, delivery to the Trustee of an Opinion of Counsel (subject to customary exceptions and exclusions) to the effect that holders of such series will not recognize income, gain or loss for Federal income tax purposes as a result of such deposit and defeasance and will be subject to Federal income tax on the same amount and in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred. In the case of legal defeasance only, such Opinion of Counsel must be based on a ruling of the Internal Revenue Service or other change in applicable Federal income tax law.

If the Company fails to comply with its remaining obligations under the Indenture with respect to the debt securities of any series following a covenant defeasance and such debt securities are declared due and payable because of the occurrence of any undefeased Event of Default, the amount of money and U.S. Government Obligations on deposit with the Trustee may be insufficient to pay amounts due on such debt securities at the time of the acceleration resulting from such Event of Default; however, the Company will remain liable in respect of such payments.

### **Payments**

We will pay interest, principal and other amounts payable with respect to the debt securities of any series to the holders of record of those debt securities as of the record dates and otherwise in the manner specified below or in the prospectus supplement for that series.

We will make payments on a global debt security in accordance with the applicable policies of the depository as in effect from time to time. Under those policies, we will pay directly to the depository, or its nominee, and not to any indirect owners who own beneficial interests in the global debt security. An indirect owner’s right to receive those payments will be governed by the rules and practices of the depository and its participants.

We will make payments on a debt security in non-global, registered form as follows. We will pay interest that is due on an interest payment date by check mailed on the interest payment date to the holder at his or her address shown on the Trustee’s records as of the close of business on the regular record date. We will make all other payments by check at the paying agent described below, against surrender of the debt security. All payments by check will be made in next-day funds (i.e., funds that become available on the day after the check is cashed).

Alternatively, if a non-global debt security has a face amount of at least \$1,000,000 and the holder asks us to do so, we will pay any amount that becomes due on the debt security by wire transfer of immediately available funds to an account at a bank in New York City, on the due date. To request wire payment, the holder must give the paying agent appropriate wire transfer instructions at least five business days before the requested wire payment is due. In the case of any interest payment due on an interest payment date, the instructions must be given by the person or entity who is the holder on the relevant regular record date. In the case of any other payment, payment will be made only after the debt security is surrendered to the paying agent. Any wire instructions, once properly given, will remain in effect unless and until new instructions are given in the manner described above.

Book-entry and other indirect owners should consult their banks or brokers for information on how they will receive payments on their debt securities.

### **Guarantees**

The debt securities of any series may be guaranteed by one or more of our existing or future subsidiaries. However, the applicable indenture governing the debt securities will not require that any of our existing or future subsidiaries be a guarantor of any series of debt securities and will permit the guarantors of any series of guaranteed debt securities to differ from the guarantors of any other series of guaranteed debt securities. If we issue a series of guaranteed debt securities, the identity of the specific guarantors of the debt securities of that series will be identified in the applicable prospectus supplement.

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If we issue a series of guaranteed debt securities, a description of some of the terms of guarantees of those debt securities will be set forth in the applicable prospectus supplement. 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, on a joint and several basis with each other guarantor, the due and punctual payment of the principal of, and premium, if any, and interest on each debt security of such series, all in accordance with the terms of such debt securities and the applicable indenture.

Notwithstanding the foregoing, unless otherwise provided in the prospectus supplement relating to a series of guaranteed debt securities, the applicable indenture will contain provisions to the effect that the obligations of each guarantor under its guarantees and such indenture shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such guarantor, result in the obligations of such guarantor under such guarantees and such indenture not constituting a fraudulent conveyance or fraudulent transfer 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.

No guarantor will consolidate with or merge into any other Person or sell, convey or transfer all or substantially all its properties and assets to any Person, and no guarantor will permit any Person to consolidate with or merge into such guarantor, in each case in a transaction in which the successor Person formed by such consolidation or merger or to which such sale, conveyance or transfer is made is an affiliate of the Company, and no guarantor will lease all or substantially all its properties and assets to any Person (whether or not such an affiliate), unless, in any such case:

- (1) in case such guarantor will consolidate with or merge into another Person or sell, convey, transfer or lease all or substantially all its properties and assets to any Person, the Person formed by such consolidation or into which such guarantor is merged or the Person which acquires by sale, conveyance or transfer, or which leases, all or substantially all the properties and assets of such guarantor will be a corporation, limited liability company, partnership or trust, will be organized and validly existing under the laws of the United States, any state thereof or the District of Columbia and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, the performance or observance of every covenant of the Indenture and any guarantees on the part of such guarantor to be performed or observed; and
- (2) immediately after giving effect to such transaction no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing.

Upon any consolidation of any guarantor with, or merger of such guarantor into, any other Person or any sale, conveyance, transfer or lease of all or substantially all the properties and assets of such guarantor in accordance with this paragraph, the successor Person formed by such consolidation or into which such guarantor is merged or to which such sale, conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, such guarantor under the Indenture with the same effect as if such successor Person had been named as such guarantor in the Indenture, and thereafter, except in the case of a lease, the predecessor Person will be relieved of all obligations and covenants under the Indenture and any guarantees of such guarantor.

Unless otherwise provided in the prospectus supplement relating to a series of guaranteed debt securities, the applicable indenture will (i) provide that, upon the sale or disposition (by merger or otherwise) of any guarantor, (x) if the transferee is not an affiliate of the Company, such guarantor will automatically be released from all obligations under its guarantee of such debt securities or (y) otherwise, the transferee (if other than another guarantor) will assume the guarantor's obligations under its guarantee of such debt securities and (ii) permit us to cause the guarantee of any guarantor of such debt securities to be released at any time if we satisfy such conditions, if any, as are specified in the prospectus supplement for such debt securities.

The applicable prospectus supplement relating to any series of guaranteed debt securities will specify other terms of the applicable guarantees.

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If the applicable prospectus supplement relating to a series of our senior debt securities provides that those senior debt securities will have the benefit of a guarantee by any or all of our existing or future subsidiaries, unless otherwise provided in the applicable prospectus supplement, each such guarantee will be the unsubordinated and unsecured obligation of the applicable guarantor and will rank equally in right of payment with all of the unsecured and unsubordinated indebtedness of such guarantor.

Any guarantee of any debt securities will be effectively subordinated to all existing and future secured indebtedness of the applicable guarantor, including any secured guarantees of other Company indebtedness, to the extent of the value of the collateral securing that indebtedness. Consequently, in the event of a bankruptcy, or similar proceeding with respect to any guarantor that has provided a guarantee of any debt securities, the holders of that guarantor's secured indebtedness will be entitled to proceed directly against the collateral that secures that secured indebtedness and such collateral will not be available for satisfaction of any amount owed by such guarantor under its unsecured indebtedness, including its guarantees of any debt securities, until that secured debt is satisfied in full. Unless otherwise provided in the applicable prospectus supplement, the indenture will not limit the ability of any guarantor to incur secured indebtedness.

If the applicable prospectus supplement relating to a series of our subordinated debt securities provides that those subordinated debt securities will have the benefit of a guarantee by any or all of our existing or future subsidiaries, unless otherwise provided in the applicable prospectus supplement, each such guarantee will be the subordinated and unsecured obligation of the applicable guarantor and, in addition to being effectively subordinated to secured debt of such guarantor, will be subordinated in right of payment to all of such guarantor's existing and future senior indebtedness, including any guarantee of the senior debt securities, to the same extent and in the same manner as the subordinated debt securities are subordinated to our senior debt. Please read "— Subordination" above.

### **No Individual Liability of Incorporators, Stockholders, Officers or Directors**

The Indenture provides that no incorporator and no past, present or future stockholder, officer or director of the Company, any guarantor or any Successor Company, in their capacity as such, shall have any individual liability for any of our obligations under the debt securities, the guarantees or the Indenture.

### **Governing Law**

The Indenture is, and the debt securities and any guarantees will be, governed by, and construed in accordance with, the laws of the State of New York.

### **Regarding the Trustee**

The Indenture does not prohibit the Trustee from serving as trustee under any other indenture to which we may be a party from time to time or from engaging in other transactions with us. If the Trustee acquires any conflicting interest within the meaning of the Trust Indenture Act of 1939 and there is an Event of Default with respect to any series of debt securities, the Trustee must eliminate the conflict or resign.

## DESCRIPTION OF WARRANTS

We may issue warrants to purchase any combination of common stock, preferred stock, debt securities, depositary shares and purchase contracts. Each warrant will entitle the holder to purchase for cash a number of securities at the exercise price as will in each case be described in, or can be determined from, the applicable prospectus supplement relating to the offered warrants.

Warrants may be issued independently or together with any securities and may be attached to or separate from the securities. The warrants will be issued under warrant agreements to be entered into between us and a bank or trust company, as warrant agent. You should read the particular terms of the warrants, which will be described in more detail in any applicable prospectus supplement. The particular terms of any warrants offered by any prospectus supplement, and the extent to which the general provisions summarized below may apply to the offered securities, will be described in a prospectus supplement.

Any applicable prospectus supplement will describe the terms of warrants we offer, the warrant agreement relating to the warrants and the certificates representing the warrants, including, to the extent applicable:

- the title of the warrants;
- the aggregate number of warrants;
- the price or prices at which the warrants will be issued;
- the currency or currencies, including composite currencies or currency units, in which the price of the warrants may be payable if not payable in U.S. dollars;
- the designation, number or aggregate principal amount and terms of the securities purchasable upon exercise of the warrants, and the procedures and conditions relating to the exercise of the warrants;
- any provisions for adjustment of the number or amount of securities receivable upon exercise of the warrants or the exercise price of the warrants;
- the date on which the right to exercise the warrants will commence, and the date on which the right will expire;
- the designation and terms of any related securities with which the warrants are issued, and the number of the warrants issued with each security;
- the date, if any, on and after which the warrants and the related securities will be separately transferable;
- the maximum or minimum number of warrants that may be exercised at any time;
- the terms of any mandatory or optional redemption by us;
- the identity of the warrant agent;
- information with respect to book-entry procedures, if any;
- if appropriate, a discussion of material United States federal income tax considerations; and
- any other terms of the warrants, including terms, procedures and limitations relating to the exchange and exercise of the warrants.

**DESCRIPTION OF DEPOSITARY SHARES**

Shares of preferred stock may be offered either separately or represented by depositary shares. We may also, at our option, elect to offer fractional shares of preferred stock. If we exercise this option, we will issue receipts for depositary shares, each of which will represent a fraction of a share of a particular series of preferred stock, to be described in an applicable prospectus supplement.

The shares of any series of preferred stock represented by depositary shares will be deposited under a deposit agreement between us and one or more depositaries selected by us, who we will name in an applicable prospectus supplement. Subject to the terms of the deposit agreement, each holder of a depositary share will be entitled, in proportion to the applicable share or fraction thereof represented by the depositary share, to all of the rights and preferences, if any, of the preferred stock represented thereby, including any dividend, voting, redemption, conversion and liquidation rights. The depositary shares will be evidenced by depositary receipts issued pursuant to the deposit agreement.

The particular terms of the depositary shares offered by any prospectus supplement will be described in a prospectus supplement, which will also include a discussion of certain United States federal income tax consequences.

We will include a copy of the form of deposit agreement, including the form of depositary receipt, and any other instrument establishing the terms of any depositary shares we offer as exhibits to a filing we will make with the SEC in connection with that offering. Please read “Where You Can Find More Information.”

**DESCRIPTION OF PURCHASE CONTRACTS AND PURCHASE UNITS**

We may issue purchase contracts representing contracts obligating holders, subject to the terms of such purchase contracts, to purchase from us, and us to sell to the holders, a specified or varying number of our common stock, preferred stock or other securities described in this prospectus at a future date or dates. Alternatively, the purchase contracts may, subject to the terms of such purchase contracts, obligate us to purchase from holders, and obligate the holders to sell to us, a specified or varying number of common stock, preferred stock or other securities described in this prospectus. The price per unit of our common stock, preferred stock or other securities described in this prospectus and number of units may be fixed at the time the purchase contracts are entered into or may be determined by reference to a specific formula set forth in the purchase contracts. We may issue the purchase contracts separately or as part of units, which we refer to as “purchase units,” consisting of a purchase contract and other securities or obligations issued by us or third parties, including government securities, in each case, securing the holders’ obligations to purchase the relevant securities under the purchase contracts. The purchase contracts may require us to make periodic payments to the holders of the purchase contracts or purchase units or vice versa, and such payments may be unsecured or prefunded on some basis.

Any applicable prospectus supplement will describe the terms of any purchase contract or purchase units. The description in a prospectus supplement will not necessarily be complete and will be qualified in its entirety by reference to the purchase contracts, and, if applicable, collateral arrangements and depository arrangements, relating to the purchase contracts or purchase units.

## DESCRIPTION OF UNITS

We may issue units of securities consisting of one or more of the following securities: common stock, preferred stock, rights, debt securities, warrants, depositary shares and purchase contracts. We may evidence each series of units issued by unit certificates that we will issue under a separate unit agreement. We may enter into unit agreements with a unit agent. Each unit agent will be a bank or trust company that we select. You should read the particular terms of these documents, which will be described in more detail in a prospectus supplement.

If we offer any units, certain terms of that series of units will be described in a prospectus supplement, including, without limitation, the following, as applicable:

- the title of the series of units;
- identification and description of the separate constituent securities comprising the units;
- the price or prices at which the units will be issued;
- the date, if any, on and after which the constituent securities comprising the units will be separately transferable;
- a description of the term of any unit agreement governing the units;
- a description of the provisions for the payment, settlement, transfer or exchange of the units;
- if appropriate, a discussion of material United States federal income tax considerations; and
- any other terms of the units and their constituent securities.

## PLAN OF DISTRIBUTION

We may sell the securities on a delayed or continuous basis in and outside the United States through the methods described below or through any other method permitted pursuant to applicable law, including through a combination of such methods.

A prospectus supplement, if required, will set forth any required information such as the terms of the offering and the method of distribution and will include the following information:

- the name or names of any underwriters or agents;
- the purchase price of the securities;
- the net proceeds from the sale of the securities;
- any over-allotment options under which underwriters may purchase additional securities;
- any underwriting discounts, commissions and other items constituting compensation to underwriters, dealers or agents;
- any public offering price;
- any discounts or concessions allowed or reallocated or paid to dealers; and
- any securities exchange or market on which the securities offered in a prospectus supplement may be listed.

### **Sale Through Underwriters or Dealers**

If we use underwriters in the sale of securities, the underwriters will acquire the securities for their own account. The underwriters may resell the securities from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale.

Underwriters may offer securities to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more firms acting as underwriters. The obligations of the underwriters to purchase the securities may be subject to conditions, and the underwriters may in such event be obligated to purchase all the offered securities if they purchase any of them. The underwriters may change from time to time any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers.

Underwriters may sell our securities under this prospectus by any method permitted by law deemed to be an “at the market” offering as defined in Rule 415 under the Securities Act, which includes sales made directly on the NYSE, on any other existing trading market for such securities or to or through a market maker, or in privately negotiated transactions. Unless stated otherwise in any applicable prospectus supplement, the sales agent with respect to any such at the market offering will make all sales using commercially reasonable efforts consistent with its normal trading and sales practices, on mutually agreeable terms between the sales agent and us. Any applicable prospectus supplement will include the amount of any compensation to be received by the sales agent.

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

If we use dealers in the sale of securities, we will sell the securities to them as principals. They may then resell those securities to the public at varying prices determined by the dealers at the time of resale. We also may agree to sell, and the relevant underwriters or agents may agree to solicit offers to purchase, blocks of securities. The terms of each such agreement will be set forth in more detail in any applicable prospectus supplement and any related free writing prospectus. The dealers participating in any sale of the securities may be deemed to be



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underwriters within the meaning of the Securities Act with respect to any sale of those securities. If required, we will include in any applicable prospectus supplement the names of the dealers and the terms of the transaction.

### **Direct Sales and Sales Through Agents**

We may sell the securities directly. In that event, no underwriters or agents would be involved. We also may sell the securities through agents we designate from time to time to solicit offers from purchasers to purchase the securities included in this prospectus or to sell such securities in ordinary brokerage transactions on our behalf. If required, a prospectus supplement will name any agent involved in the offer or sale of the offered securities and will describe any commissions payable by us to the agent. Unless stated otherwise in any applicable prospectus supplement, any agent will agree to use its reasonable best efforts to solicit purchases for the period of its appointment.

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

We may also offer securities through subscription rights distributed to our stockholders on a pro rata basis, which may or may not be transferable. In any distribution of subscription rights to stockholders, if all of the underlying securities are not subscribed for, we may then sell the unsubscribed securities directly to third parties or may engage the services of one or more underwriters, dealers or agents, including standby underwriters, to sell the unsubscribed securities to third parties.

### **Delayed Delivery Contracts**

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

### **Remarketing**

We may offer and sell any of the securities in connection with a remarketing upon their purchase, in accordance with a redemption or repayment by their terms or otherwise, by one or more remarketing firms acting as principals for their own accounts or as our agents. The name of any remarketing firm, the terms of any remarketing agreement and the compensation to be paid to the remarketing firm will be included in a prospectus supplement, as required. Remarketing firms may be deemed to be underwriters within the meaning of the Securities Act.

### **Derivative Transactions**

We may enter into derivative transactions with third parties, or sell securities not covered by this prospectus to third parties in privately negotiated transactions. If any applicable prospectus supplement indicates, in connection with those derivatives, the third parties may sell securities covered by this prospectus and the applicable prospectus supplement, including in short sale transactions then the third parties may use securities pledged by us or borrowed from us or others to settle those sales or to close out any related open borrowings of securities, and may use securities received from us in settlement of those derivatives to close out any related open borrowings of securities. The third parties in these sale transactions will be underwriters and will be identified in such applicable prospectus supplement or in a post-effective amendment to the registration statement of which this prospectus forms a part.

### **General Information**

In connection with the sale of the securities, underwriters, dealers or agents may be deemed to have received compensation from us in the form of underwriting discounts or commissions and also may receive commissions from securities purchasers for whom they may act as agent. Underwriters may sell the securities to or through dealers, and the dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters or commissions from the purchasers for whom they may act as agent.

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We will provide in a prospectus supplement any required information regarding any underwriting discounts or other compensation that we pay to underwriters or agents in connection with the securities offering, and any discounts, concessions or commissions that underwriters allow to dealers.

Any underwriters, dealers or agents participating in a distribution of the securities may be deemed to be underwriters within the meaning of 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 agree to indemnify underwriters, dealers and agents who participate in the distribution of securities against certain liabilities to which they may become subject in connection with the sale of the securities, including liabilities arising under the Securities Act, or to contribute with respect to payments that the agents, dealers or underwriters may be required to make because of those liabilities. Agents, dealers and underwriters, or their affiliates or associates, may be customers of, engage in transactions with or perform services for us in the ordinary course of their businesses.

Other than our common stock, which is listed on the NYSE, each series of offered securities will have no established trading market. We may elect to list any series of offered securities on an exchange, but we are not obligated to do so. It is possible that one or more underwriters may make a market in a series of offered securities. However, they will not be obligated to do so and may discontinue market making at any time without notice. We cannot assure you as to the liquidity of, or the trading market for, any of our offered securities.

To the extent required, this prospectus may be amended or supplemented from time to time to describe a specific plan of distribution. The place and time of delivery for the securities in respect of which this prospectus is delivered may be set forth in a prospectus supplement, if required.

**LEGAL MATTERS**

The validity of the securities offered by this prospectus and certain other legal matters will be passed upon for us by Baker Botts L.L.P., Houston, Texas. Any underwriters, dealers or agents will be advised about legal matters relating to any offering by their own legal counsel.

**EXPERTS**

The audited financial statements and management's assessment of the effectiveness of internal control over financial reporting incorporated by reference in this prospectus and elsewhere in the registration statement have been so incorporated by reference in reliance upon the reports of Grant Thornton LLP, independent registered public accountants, upon the authority of said firm as experts in accounting and auditing.

## WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other business and financial information with the SEC. Our SEC filings are available to the public at the internet website maintained by the SEC at [www.sec.gov](http://www.sec.gov). You will also be able to obtain many of these documents, free of charge, from us by accessing our website at [www.cvrenergy.com](http://www.cvrenergy.com) under the “Investor Relations” link and then the “SEC Filings” link. The information contained on, or that can be accessed through, our website is not part of, and is not incorporated into, this prospectus. This prospectus is part of a registration statement we have filed with the SEC relating to the securities we may offer.

As permitted by SEC rules, this prospectus does not contain all of the information we have included in the registration statement and the accompanying exhibits and schedules we file with the SEC. You may refer to the registration statement, exhibits and schedules for more information about us.

The SEC allows us to “incorporate by reference” the information we have filed with it, which means that we can disclose important information to you by referring you to those documents. The information we incorporate by reference is an important part of this prospectus, and later information that we file with the SEC will automatically update and supersede this information. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus. We incorporate by reference the documents listed below and any future filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act (excluding any information furnished pursuant to Item 2.02 or Item 7.01 of any Current Report on Form 8-K, unless otherwise specified in such current report) until the termination of the issuances under this prospectus. The documents we incorporate by reference include:

- our Annual Report on Form 10-K for the fiscal year ended [December 31, 2021](#);
- our Quarterly Reports on Form 10-Q for the periods ended [March 31, 2022](#) and [June 30, 2022](#);
- our Current Reports on Form 8-K filed with the SEC on [January 4, 2022](#), [February 1, 2022](#), [June 3, 2022](#), [June 29, 2022](#), [July 1, 2022](#) and [July 26, 2022](#);
- our Definitive Proxy Statement on Schedule 14A for our 2022 Annual Meeting of Stockholders, filed with the SEC on [April 20, 2022](#), to the extent incorporated by reference in our Annual Report on Form 10-K for the fiscal year ended [December 31, 2021](#); and
- the description of our common stock contained in our Registration Statement on Form 8-A filed on [May 22, 2007](#), as updated by Exhibit 4.1 to our Annual Report on Form 10-K for the fiscal year ended [December 31, 2021](#), together with any other amendment or report filed for the purpose of updating such description.

You may request a copy of these filings, other than an exhibit to these filings unless we have specifically incorporated that exhibit by reference into this prospectus, at no cost, by writing or telephoning us at the following address:

CVR Energy, Inc.  
2277 Plaza Drive, Suite 500  
Sugar Land, Texas 77479  
Attention: Investor Relations  
Telephone: (281) 207-3464

**PART II**

**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 14. Other Expenses of Issuance and Distribution.**

The following table sets forth all expenses payable by us in connection with the issuance and distribution of the securities being registered.

Registration fee	\$	*
Trustee fees and expenses		†
Accounting fees and expenses		†
Legal fees and expenses		†
Printing fees and expenses		†
Rating agency fees and expenses		†
Miscellaneous		†
Total	\$	†

\* Under SEC Rules 456(b) and 457(r), the SEC registration fee will be paid at the time of any particular offering of securities under the registration statement and is therefore not currently estimable.

† Estimated expenses are not currently known. The foregoing sets forth the general categories of expenses (other than underwriting discounts and commissions) that CVR Energy anticipates it will incur in connection with the offering of securities under this registration statement. An estimate of the aggregate expenses in connection with the issuance and distribution of the securities being offered will be included in any applicable prospectus supplement.

**Item 15. Indemnification of Directors and Officers.**

***CVR Energy, Inc.***

Section 145 of the Delaware General Corporation Law empowers a Delaware corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of such corporation) by reason of the fact that such person is or was a director or officer, employee or agent of such corporation, or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise. The indemnity may include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided that he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. A Delaware corporation may indemnify directors, officers, employees and others in an action by or in the right of the corporation under the same conditions, except that no indemnification is permitted without judicial approval if the person to be indemnified has been adjudged to be liable to the corporation. Where a director or officer is successful on the merits or otherwise in the defense of any action referred to above or in defense of any claim, issue or matter therein, the corporation must indemnify such director or officer against the expenses (including attorneys' fees) which he or she actually and reasonably incurred in connection therewith.

As permitted by the Delaware General Corporation Law, the certificate of incorporation of CVR Energy includes a provision that eliminates the personal liability of its directors for monetary damages for breach of fiduciary duty as a director, except for liability:

- for any breach of the director's duty of loyalty to the Company or its stockholders;
- for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- under section 174 of the Delaware General Corporation Law regarding unlawful dividends and stock purchases; or
- for any transaction for which the director derived an improper personal benefit.

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As permitted by the Delaware General Corporation Law, the Company's bylaws, provide that:

- the Company is required to indemnify its directors and officers to the fullest extent permitted by the Delaware General Corporation Law, subject to very limited exceptions;
- the Company may indemnify its other employees and agents to the fullest extent permitted by the Delaware General Corporation Law, subject to very limited exceptions;
- the Company is required to advance expenses, as incurred, to its directors and officers in connection with a legal proceeding to the fullest extent permitted by the Delaware General Corporation Law, subject to very limited exceptions;
- the Company may advance expenses, as incurred, to its employees and agents in connection with a legal proceeding; and
- the rights conferred in the bylaws are not exclusive.

The Company's board of directors has approved a form of indemnification agreement for its directors and officers and expects that each of its current and future directors and officers will enter into substantially similar indemnification agreements with the Company to give the Company's directors and officers additional contractual assurances regarding the scope of the indemnification set forth in the Company's certificate of incorporation and to provide additional procedural protections.

The indemnification provisions in the Company's certificate of incorporation and bylaws and the indemnification agreements entered into between the Company and each of its current and future directors and officers may be sufficiently broad to permit indemnification of the Company's directors and officers for liabilities arising under the Securities Act.

The Company and its subsidiaries are covered by liability insurance policies which indemnify their directors and officers against loss arising from claims by reason of their legal liability for acts as such directors, officers or trustees, subject to limitations and conditions as set forth in the policies.

In connection with an offering of the securities registered hereunder, the Company may enter into an underwriting agreement which may provide that the underwriters are obligated, under certain circumstances, to indemnify directors, officers and controlling persons of the Company against certain liabilities, including liabilities under the Securities Act.

### ***Subsidiary Guarantors***

*CVR Energy Holdings, Inc.*

For a description of Delaware General Corporation Law, please see above under the heading "—CVR Energy, Inc."

The certificate of incorporation and bylaws of CVR Energy Holdings, Inc. provide generally for the indemnification of directors and officers to the fullest extent permitted by law.

CVR Energy Holdings, Inc. may purchase insurance against liabilities asserted against and expenses incurred by persons for its activities, regardless of whether it would have the power to indemnify the person against liabilities under its bylaws.

*Coffeyville Resources Crude Transportation, LLC, Coffeyville Resources Pipeline, LLC, CRRM, Coffeyville Resources Terminal, LLC, CVR Refining, LLC, Wynnewood Energy Company, LLC, Wynnewood Refining Company, LLC, CVR Services, LLC, CVR Refining GP, LLC, CVR Renewables, LLC, Common Assets Holdco, LLC, CVR Common Assets CVL, LLC, CVR Common Assets WYN, LLC, Common Services Holdco, LLC, CVR Common Services, LLC, Renewable Assets Holdco, LLC, CVR Renewables CVL, LLC, CVR Renewables WYN, LLC, CVR Supply & Trading, LLC, CVR Refining CVL, LLC and CVR Refining WYN, LLC*

Section 18-108 of the Delaware Limited Liability Company Act provides that a Delaware limited liability company, subject to such standards and restrictions, if any, as are set forth in such limited liability company's limited liability company agreement, may indemnify and hold harmless any member or manager or other person from and against any and all claims and demands whatsoever.

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The limited liability company operating agreements of each of Coffeyville Resources Crude Transportation, LLC, Coffeyville Resources Pipeline, LLC, CRRM and Coffeyville Resources Terminal, LLC provide generally for the indemnification of the members of each respective limited liability company.

The limited liability company operating agreements of each of CVR Refining, LLC, CVR Services, LLC, CVR Renewables, LLC, Common Assets Holdco, LLC, CVR Common Assets CVL, LLC, CVR Common Assets WYN, LLC, Common Services Holdco, LLC, CVR Common Services, LLC, Renewable Assets Holdco, LLC, CVR Renewables CVL, LLC, CVR Renewables WYN, LLC, CVR Supply & Trading, LLC, CVR Refining CVL, LLC and CVR Refining WYN, LLC provide generally for the indemnification of members and officers to the fullest extent permitted by law.

The limited liability company agreement of CVR Refining GP, LLC provides generally for the indemnification of members, officers, fiduciaries and trustees of CVR Refining GP, LLC to the fullest extent permitted by law, as further described in “—CVR Refining, CVR CGC, LP, CVR FHC, LP and CVR RHC, LP” below.

The certificates of formation and limited liability company operating agreements of Wynnewood Energy Company, LLC and Wynnewood Refining Company, LLC do not address indemnification.

### *CVR Refining, CVR CHC, LP, CVR FHC, LP and CVR RHC, LP*

Section 17-08 of the Delaware Revised Uniform Limited Partnership Act empowers a Delaware limited partnership to indemnify and hold harmless any partner or other person from and against all claims and demands whatsoever. CVR Refining’s second amended and restated limited partnership agreement does not address indemnification. The agreements of limited partnership of each of CVR CHC, LP, CVR FHC, LP and CVR RHC, LP do not address indemnification.

The limited liability company operating agreement of CVR Refining’s general partner, CVR Refining GP, LLC, provides for the indemnification of the following persons in most circumstances to the fullest extent permitted by law:

- CVR Refining’s general partner;
- any departing general partner;
- any affiliate of CVR Refining or any departing general partner;
- any person who is or was a director, officer, fiduciary, trustee, manager or managing member of CVR Refining or its subsidiaries, CVR Refining’s general partner or any departing general partner or any of the general partner’s or any departing general partner’s affiliates;
- any person who is or was serving as a director, officer, fiduciary, trustee, manager or managing member of another person owing a fiduciary duty to CVR Refining or its subsidiary at the request of a general partner or any departing general partner;
- any person who controls, or has previously controlled, CVR Refining’s general partner; or
- any person designated by CVR Refining’s general partner.

Additionally, the limited liability company agreement of CVR Refining’s general partner, provides for the indemnification of its directors and officers against liabilities they incur in their capacities as such. CVR Refining may enter into indemnity agreements with each of the current directors and officers of its general partner to give these directors and officers additional contractual assurances regarding the scope of the indemnification set forth in the general’s partners limited liability company agreement and to provide additional procedural protections.

The limited liability company operating agreements of each of CVR CHC, LP’s general partner, CHC GP, LLC, CVR FHC, LP’s general partner, FHC GP, LLC, and CVR RHC, LP’s general partner, RHC GP, LLC, provide generally for the indemnification of members and officers to the fullest extent permitted by law.

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### Item 16. Exhibits.

The following documents are filed as exhibits to this registration statement:<sup>†</sup>

Number	Exhibit Title
<a href="#">4.1*</a>	Amended and Restated Certificate of Incorporation of CVR Energy, Inc. (incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed on June 15, 2018).
<a href="#">4.2*</a>	Second Amended and Restated Bylaws of CVR Energy, Inc. (incorporated by reference to Exhibit 3.2 to the Company's Form 8-K filed on June 15, 2018).
<a href="#">4.3*</a>	Specimen Common Stock Certificate (incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-1/A, File No. 333-137588, filed on June 5, 2007).
<a href="#">4.4</a>	Form of Indenture for Debt Securities.
<a href="#">5.1</a>	Opinion of Baker Botts L.L.P. regarding the validity of the securities being registered.
<a href="#">23.1</a>	Consent of Grant Thornton LLP.
<a href="#">23.2</a>	Consent of Baker Botts L.L.P. (included in Exhibit 5.1).
<a href="#">24.1</a>	Powers of Attorney (contained on the signature pages hereof).
<a href="#">25.1</a>	Form T-1 Statement of Eligibility and Qualification of the Trustee under the Trust Indenture Act of 1939 for the Indenture for the Debt Securities.
<a href="#">107</a>	Filing Fee Table.

<sup>†</sup> We will file as an exhibit to a Current Report on Form 8-K (i) any underwriting, remarketing or agency agreement relating to the securities offered hereby, (ii) the instruments setting forth the terms of any securities, (iii) any additional required opinions of counsel with respect to the legality of the securities offered hereby or (iv) any required opinion of our counsel as to certain tax matters relative to the securities offered hereby.

\* Previously filed.

### Item 17. Undertakings.

(a) The undersigned registrants hereby undertake:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
  - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act;
  - (ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of a prospectus filed with the SEC pursuant to Rule 424(b) 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; and
  - (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

*provided, however*, that paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the SEC by the registrants pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

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



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- (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 such prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.
- (5) That, for purposes of determining liability of the registrants under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned registrants undertake that in a primary offering of securities of the undersigned registrants pursuant to the registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrants will be sellers to the purchaser and will be considered to offer or sell such securities to such purchaser:
  - (i) Any preliminary prospectus or prospectus of the undersigned registrants relating to the offering required to be filed pursuant to Rule 424;
  - (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrants or used or referred to by the undersigned registrants;
  - (iii) That portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrants or their securities provided by or on behalf of the undersigned registrants; and
  - (iv) Any other communication that is an offer in the offering made by the undersigned registrants to the purchaser.
- (b) The undersigned registrants hereby undertake that, for purposes of determining any liability under the Securities Act, each filing of such registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrants pursuant to the foregoing provisions, or otherwise, the undersigned registrants have been advised that in the opinion of the SEC such indemnification 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

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expenses incurred or paid by a director, officer or controlling person of the registrants in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrants will, unless in the opinion of their 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.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the 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 City of Sugar Land, State of Texas, on August 5, 2022.

**CVR ENERGY, INC.**By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints each of David L. Lamp and Dane J. Neumann, as his true and lawful attorney or attorney-in-fact and agent, with full power to act with or without the others and with full power of substitution and resubstitution, to execute in his name, place and stead, in any and all capacities, any or 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 in the name and on behalf of the undersigned, in any and all capacities, each and every act and thing necessary or desirable to be done in and about the premises, to all intents and purposes and as fully as they might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or their substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated on August 5, 2022.

Name	Title
<u>/s/ DAVID L. LAMP</u> David L. Lamp	President, Chief Executive Officer and Director (Principal Executive Officer)
<u>/s/ DANE J. NEUMANN</u> Dane J. Neumann	Executive Vice President, Chief Financial Officer, Treasurer and Assistant Secretary (Principal Financial Officer)
<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)
<u>/s/ DAVID WILLETTS</u> David Willetts	Chairman of the Board and Director
<u>/s/ JAFFERY A. FIRESTONE</u> Jaffery A. Firestone	Director
<u>/s/ HUNTER C. GARY</u> Hunter C. Gary	Director
<u>/s/ STEPHEN MONGILLO</u> Stephen Mongillo	Director
<u>/s/ JAMES M. STROCK</u> James M. Strock	Director

**SIGNATURES**

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**COFFEYVILLE RESOURCES CRUDE  
TRANSPORTATION, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints each of David L. Lamp and Dane J. Neumann, as his true and lawful attorney or attorney-in-fact and agent, with full power to act with or without the others and with full power of substitution and resubstitution, to execute in his name, place and stead, in any and all capacities, any or 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 in the name and on behalf of the undersigned, in any and all capacities, each and every act and thing necessary or desirable to be done in and about the premises, to all intents and purposes and as fully as they might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or their substitutes may lawfully do or cause to be done by virtue hereof.

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<u>Name</u>	<u>Title</u>
<u>/s/ DAVID L. LAMP</u> David L. Lamp	President and Chief Executive Officer (Principal Executive Officer)
<u>/s/ DANE J. NEUMANN</u> Dane J. Neumann	Executive Vice President, Chief Financial Officer, Treasurer and Assistant Secretary (Principal Financial Officer)
<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)

**SIGNATURES**

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**COFFEYVILLE RESOURCES PIPELINE, LLC**

By: /s/ DAVID L. LAMP

\_\_\_\_\_  
David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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Name	Title
_____ /s/ DAVID L. LAMP _____ David L. Lamp	President and Chief Executive Officer (Principal Executive Officer)
_____ /s/ DANE J. NEUMANN _____ Dane J. Neumann	Executive Vice President, Chief Financial Officer, Treasurer and Assistant Secretary (Principal Financial Officer)
_____ /s/ JEFFREY D. CONAWAY _____ Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)

**SIGNATURES**

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**COFFEYVILLE RESOURCES REFINING & MARKETING, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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<u>/s/ DANE J. NEUMANN</u> Dane J. Neumann	Executive Vice President, Chief Financial Officer, Treasurer and Assistant Secretary (Principal Financial Officer)
<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)

**SIGNATURES**

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**COFFEYVILLE RESOURCES TERMINAL, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)

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**COMMON ASSETS HOLDCO, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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<u>/s/ DANE J. NEUMANN</u> Dane J. Neumann	Executive Vice President, Chief Financial Officer, Treasurer and Assistant Secretary (Principal Financial Officer)
<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)



**SIGNATURES**

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**COMMON SERVICES HOLDCO, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)

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**CVR CHC, LP**

**By: CHC GP, LLC, its general partner**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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<u>Name</u>	<u>Title</u>
<u>/s/ DAVID L. LAMP</u> David L. Lamp	President and Chief Executive Officer (Principal Executive Officer)
<u>/s/ DANE J. NEUMANN</u> Dane J. Neumann	Executive Vice President, Chief Financial Officer, Treasurer and Assistant Secretary (Principal Financial Officer)
<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)

**SIGNATURES**

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**CVR COMMON ASSETS CVL, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints each of David L. Lamp and Dane J. Neumann, as his true and lawful attorney or attorney-in-fact and agent, with full power to act with or without the others and with full power of substitution and resubstitution, to execute in his name, place and stead, in any and all capacities, any or 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 in the name and on behalf of the undersigned, in any and all capacities, each and every act and thing necessary or desirable to be done in and about the premises, to all intents and purposes and as fully as they might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or their substitutes may lawfully do or cause to be done by virtue hereof.

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**CVR COMMON ASSETS WYN, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR COMMON SERVICES, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR ENERGY HOLDINGS, INC.**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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<u>/s/ DAVID L. LAMP</u> David L. Lamp	President, Chief Executive Officer and Director (Principal Executive Officer)
<u>/s/ DANE J. NEUMANN</u> Dane J. Neumann	Executive Vice President, Chief Financial Officer, Treasurer and Assistant Secretary (Principal Financial Officer)
<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)
<u>/s/ MELISSA M. BUHRIG</u> Melissa M. Buhrig	Director

**SIGNATURES**

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**CVR FHC, LP**

**By: FHC GP, LLC, its general partner**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR REFINING GP, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR REFINING, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR REFINING, LP**

**By: CVR Refining GP, LLC, its general partner**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR REFINING CVL, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR REFINING WYN, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR RENEWABLES, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR RENEWABLES CVL, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR RENEWABLES WYN, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR RHC, LP**

**By: RHC GP, LLC, its general partner**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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**CVR SERVICES, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints each of David L. Lamp and Dane J. Neumann, as his true and lawful attorney or attorney-in-fact and agent, with full power to act with or without the others and with full power of substitution and resubstitution, to execute in his name, place and stead, in any and all capacities, any or 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 in the name and on behalf of the undersigned, in any and all capacities, each and every act and thing necessary or desirable to be done in and about the premises, to all intents and purposes and as fully as they might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or their substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated on August 5, 2022.

<u>Name</u>	<u>Title</u>
<u>/s/ DAVID L. LAMP</u> David L. Lamp	President and Chief Executive Officer (Principal Executive Officer)
<u>/s/ DANE J. NEUMANN</u> Dane J. Neumann	Executive Vice President, Chief Financial Officer, Treasurer and Assistant Secretary (Principal Financial Officer)
<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the 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 City of Sugar Land, State of Texas, on August 5, 2022.

**CVR SUPPLY & TRADING, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)

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**RENEWABLE ASSETS HOLDCO, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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<u>/s/ DANE J. NEUMANN</u> Dane J. Neumann	Executive Vice President, Chief Financial Officer, Treasurer and Assistant Secretary (Principal Financial Officer)
<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)

**SIGNATURES**

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**WYNNEWOOD ENERGY COMPANY, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints each of David L. Lamp and Dane J. Neumann, as his true and lawful attorney or attorney-in-fact and agent, with full power to act with or without the others and with full power of substitution and resubstitution, to execute in his name, place and stead, in any and all capacities, any or 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 in the name and on behalf of the undersigned, in any and all capacities, each and every act and thing necessary or desirable to be done in and about the premises, to all intents and purposes and as fully as they might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or their substitutes may lawfully do or cause to be done by virtue hereof.

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<u>/s/ DANE J. NEUMANN</u> Dane J. Neumann	Executive Vice President, Chief Financial Officer, Treasurer and Assistant Secretary (Principal Financial Officer)
<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, as amended, the 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 City of Sugar Land, State of Texas, on August 5, 2022.

**WYNNEWOOD REFINING COMPANY, LLC**

By: /s/ DAVID L. LAMP

David L. Lamp

President and Chief Executive Officer

**POWER OF ATTORNEY**

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<u>/s/ JEFFREY D. CONAWAY</u> Jeffrey D. Conaway	Vice President, Chief Accounting Officer and Corporate Controller (Principal Accounting Officer)

**CVR ENERGY, INC.**

**and**

**THE GUARANTORS PARTY HERETO**

**to**

**U.S. Bank Trust Company, National Association,  
Trustee**

**INDENTURE**

**Dated as of [ ], [ ]**

**DEBT SECURITIES**

**CVR ENERGY, INC.**

Certain Sections of this Indenture relating to Sections 310  
through 318, inclusive, of the Trust Indenture Act

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**Trust Indenture Act Section****Indenture Section**

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Section 310(a)(1)	609
(a)(2)	609
(a)(3)	Not Applicable
(a)(4)	Not Applicable
(a)(5)	609
(b)	608
(c)	Not Applicable
Section 311(a)	613
(b)	613
Section 312(a)	701; 702
(b)	702
(c)	702
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(b)(1)	Not Applicable
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(c)	703
(d)	703
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(a)(4)	102; 704
(b)	Not Applicable
(c)(1)	102
(c)(2)	102
(c)(3)	Not Applicable
(d)	Not Applicable
(e)	102
(f)	Not Applicable
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(b)	602
(c)	601
(d)	601
(e)	514
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(a)(1)(A)	502; 512
(a)(1)(B)	513
(a)(2)	Not Applicable
(b)	508
(c)	104
Section 317(a)(1)	503
(a)(2)	504
(b)	1003
Section 318(a)	107
(b)	Not Applicable
(c)	107

Note: This reconciliation and tie shall not, for any purpose, be deemed to be a part of the Indenture.

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INDENTURE, dated as of [ ], [ ] among CVR Energy, Inc., a corporation duly organized and existing under the laws of the State of Delaware (herein called the “**Company**”), having its principal office at 2277 Plaza Drive, Suite 500, Sugar Land, Texas 77479, the Initial Guarantors, and U.S. Bank Trust Company, National Association, a national banking association duly organized and existing under the laws of the United States of America, as Trustee (herein called the “**Trustee**”).

## RECITALS OF THE COMPANY

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

Each of the Initial Guarantors has duly authorized the execution and delivery of this Indenture and will have duly authorized its guarantee prior to the date on which any Securities are issued which provide for the guarantee by such Initial Guarantor of such series of Securities as provided herein.

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

## NOW, THEREFORE, THIS INDENTURE WITNESSETH:

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

### ARTICLE I DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

SECTION 101. Definitions. 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) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP;
- (4) unless the context otherwise requires, any reference to an “Article” or a “Section” refers to an Article or a Section, as the case may be, of this Indenture;
- (5) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;
- (6) when used with respect to any Security, the words “convert,” “converted” and “conversion” are intended to refer to the right of the Holder or the Company to convert or exchange such Security into or for securities or other property in accordance with such terms, if any, as may hereafter be specified for such Security as contemplated by Section 301, and these words are not intended to refer to any right of the Holder or the Company to exchange such Security for other Securities of the same series and like tenor pursuant to Section 304, 305, 306, 906 or 1107 or another similar provision of this Indenture, unless the context otherwise requires; and references herein to the terms of any Security that may be converted mean such terms as may be specified for such Security as contemplated in Section 301;

(7) unless the context otherwise requires, any reference to “duly provided for” and other words of similar import with respect to any amount or property required to be paid or delivered, as applicable, shall include, without limitation, having made such amount or property available for payment or delivery;

(8) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement of successor sections or rules adopted by the Commission from time to time;

(9) when the words “includes” or “including” are used herein, they shall be deemed to be followed by the words “without limitation;” and

(10) “or” is not exclusive.

“**144A Global Security**” means a Global Security bearing the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee, that shall be issued in a denomination equal to the outstanding principal amount of the Securities of a particular series sold in reliance on Rule 144A under the Securities Act.

“**Act,**” when used with respect to any Holder, has the meaning specified in Section 104.

“**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 specified 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.

“**Applicable Procedures**” of a Depository means, with respect to any matter at any time, the policies and procedures of such Depository, if any, that are applicable to such matter at such time.

“**ATOP**” has the meaning specified in Section 104.

“**ATOP Message**” has the meaning specified in Section 205(1)(B).

“**Authenticating Agent**” means, when used with respect to Securities of any series, any Person authorized by the Trustee to act on behalf of the Trustee to authenticate the Securities of such series.

“**Board of Directors**” means (a) as to any Person that is a corporation, the board of directors of such Person or any duly authorized committee thereof, (b) as to any Person that is a partnership (general or limited), the board of directors of a general partner of such partnership or any duly authorized committee thereof, or (c) with respect to any other Person, the Person or group of Persons serving a similar function or any duly authorized committee thereof.

“**Board Resolution**” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by its Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee. Where any provision of this Indenture refers to action to be taken pursuant to a Board Resolution (including the establishment of any series of the Securities and the forms and terms thereof), such action may be taken by any officer or employee of the Company authorized to take such action by its Board of Directors as evidenced by a Board Resolution.

“**Broker Dealer**” has the meaning set forth in the applicable Registration Rights Agreement.

“**Business Day,**” when used with respect to any Place of Payment, means any day which is not a day on which banking institutions in that Place of Payment are authorized or obligated by law or executive order to close; *provided* that, when used with respect to any Security, “Business Day” may have such other meaning, if any, as may be specified for such Security as contemplated by Section 301.

“**Clearstream**” means Clearstream Banking, société anonyme and its successors.

“**Commission**” means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or, if at any time after the execution of this instrument 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.

“**Company**” means the Person named as the “Company” in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Company” shall mean such successor Person.

“**Company Request**” or “**Company Order**” means a written request or order signed in the name of the Company by any two Officers of the Company.

“**Corporate Trust Office**” means the designated office of the Trustee at which at any particular time its corporate trust business shall be administered and which, at the date hereof, is located at [●], Attn: [●], or at such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee.

“**corporation**” means a corporation, association, company (including a limited liability company), joint-stock company, business trust or other business entity (other than a partnership).

“**Covenant Defeasance**” has the meaning specified in Section 1303.

“**Defaulted Interest**” has the meaning specified in Section 307.

“**Defeasance**” has the meaning specified in Section 1302.

“**Depository**” means The Depository Trust Company, its nominees and their respective successors and assigns, or such other depository institution as may hereafter be appointed by the Company with respect to any Securities.

“**DTC**” has the meaning specified in Section 104.

“**Euroclear**” means Euroclear Bank S.A./N.V., as operator of the Euroclear system, and any successor thereto.

“**Event of Default**” has the meaning specified in Section 501.

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

“**Exchange Offer**,” has the meaning set forth in the applicable Registration Rights Agreement.

“**Exchange Offer Registration Statement**” has the meaning set forth in the applicable Registration Rights Agreement.

“**Exchange Securities**” means any Securities containing terms identical to Securities of a particular series bearing a Private Placement Legend (except that such Exchange Securities shall be registered under the Securities Act and shall not be included in a Private Placement Legend) that are issued and exchanged for any such Securities pursuant to the applicable Registration Rights Agreement in an Exchange Offer in accordance with Section 205(3).

“**Expiration Date**” has the meaning specified in Section 104.

“**GAAP**” means generally accepted accounting principles in the United States of America as in effect as of the date hereof, including those 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 approved by a significant segment of the accounting profession.

**“Global Security”** means, with respect to any series of Securities, one or more Securities issued in global form and executed by the Company and authenticated and delivered by the Trustee to the Depository or pursuant to the Depository’s instruction, all in accordance with this Indenture and pursuant to a Company Order, which (i) shall be registered in the name of the Depository or its nominee and (ii) shall represent, and shall be denominated in an amount equal to the aggregate principal amount of such of the Outstanding Securities of such series as shall be specified therein.

**“Guarantee”** means, when used with respect to any Security or with respect to the Securities of any series, a guarantee of such Security or of the Securities of such series, respectively, by a Guarantor of such Security or of the Securities of such series, respectively, as contemplated by [Article XIV](#).

**“Guarantor”** means each of the Initial Guarantors and any other Subsidiary of the Company that provides a Guarantee of the Securities in accordance with [Article XIV](#), in each case until released from its obligations under their Guarantees and this Indenture in accordance with the terms of this Indenture.

**“Holder”** means a Person in whose name a Security is, at the time of determination, registered in the Security Register.

**“Indenture”** means this instrument as originally executed and as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions 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, respectively. The term **“Indenture”** shall also include the terms of any particular series or specific Securities within a series established as contemplated by [Section 301](#).

**“Indirect Participant”** means a Person who holds a beneficial interest in a Global Security through a Participant.

**“Initial Guarantor”** or **“Initial Guarantors”** means each Subsidiary of the Company executing this Indenture as a Guarantor.

**“Initial Purchaser”** has the meaning set forth in the applicable Registration Rights Agreement, if applicable.

**“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.

**“Legended Regulation S Global Security”** means a Global Security bearing the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of any series of Securities initially sold in reliance on Rule 903 of Regulation S.

**“Letter of Transmittal,”** means the letter of transmittal prepared by the Company and sent to all Holders of any series of Securities for use by such Holders in connection with an Exchange Offer, as applicable.

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

**“Notice”** has the meaning specified in [Section 105](#).

**“Notice of Default”** means a written notice of the kind specified in [Section 501\(4\)](#).

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

“**Officers’ Certificate**” means a certificate signed by two Officers or by an Officer and either an Assistant Treasurer or an Assistant Secretary of the Company.

“**Opinion of Counsel**” means a written opinion from legal counsel, who may be an employee of or counsel to the Company or, and who is acceptable to the Trustee, that meets the requirements of Section 102.

“**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 502.

“**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 cancelled by the Trustee or delivered to the Trustee for cancellation;

(2) Securities for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities; *provided* that, if such Securities 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 1302;

(4) Securities which have been paid pursuant to Section 306 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 protected purchaser in whose hands such Securities are valid obligations of the Company; and

(5) Securities as to which any property deliverable upon conversion thereof has been delivered (or such delivery has been duly provided for), or as to which any other particular conditions have been satisfied, in each case as may be provided for such Securities as contemplated in Section 301; *provided, however*, that in determining whether the Holders of the requisite 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 502, (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 301, (C) the principal amount of a Security denominated in one or more foreign currencies, composite 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 301, 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, or any other obligor upon the Securities or any Affiliate of the Company 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 actually 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 or any other obligor upon the Securities or any Affiliate of the Company.

“**Participant**” means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and with respect to DTC, shall include Euroclear and Clearstream).

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

**“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 and subject to Section 1002, means the place or places where the principal of and any premium and interest on the Securities of that series are payable as contemplated by Section 301.

**“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 306 in exchange for or in lieu of a mutilated, destroyed, lost or wrongfully taken Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or wrongfully taken Security.

**“Private Placement Legend”** means the legend set forth in Section 205(4) to be placed on all Securities issued under this Indenture without registration under the Securities Act, except where otherwise permitted by the provisions of this Indenture.

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

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

**“Registration Rights Agreement,”** means any registration rights agreement among the Company, any Guarantors (if applicable), and the other parties thereto pursuant to which the Company agrees to register the offering of one or more specified series of Securities under the Securities Act.

**“Regular Record Date,”** for the interest payable on any Interest Payment Date on the Securities of any series, means the date specified for that purpose as contemplated by Section 301.

**“Regulation S”** means Regulation S under the Securities Act.

**“Regulation S Global Security”** means a Global Security deposited with or on behalf of, and registered in the name of, the Depository or its nominee, that shall be issued in a denomination equal to the outstanding principal amount of the Securities of a particular series sold in reliance on Regulation S.

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

**“Restricted Definitive Security”** means a definitive Security bearing the Private Placement Legend.

**“Restricted Global Security”** means a Global Security bearing the Private Placement Legend.

**“Restricted Period”** means the applicable 40-day distribution compliance period as defined in Regulation S.

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



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

“**Security Register**” and “**Security Registrar**” have the respective meanings specified in Section 305.

“**Shelf Registration Statement**” means the Shelf Registration Statement as defined in the applicable Registration Rights Agreement.

“**Special Record Date**” for the payment of any Defaulted Interest, means a date fixed by the Trustee pursuant to Section 307.

“**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 the principal of such Security or such installment of principal or interest is due and payable.

“**Subsidiary**,” with respect to any Person, means any (i) corporation, association or other business entity of which the outstanding capital stock having a majority of the votes entitled to be cast in the election of directors, managers or trustees of such corporation, association or other business entity under ordinary circumstances shall at the time be owned, directly or indirectly, by such Person or any other Person of which a majority of the voting interests under ordinary circumstances is at the time, directly or indirectly, owned by such Person or (ii) 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).

“**Trust Indenture Act**” means the Trust Indenture Act of 1939 as in force at the date as of which this Indenture was executed; *provided, however*, that in the event the Trust Indenture Act of 1939 is amended after such date, “**Trust Indenture Act**” means, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

“**Trustee**” means the Person named as the “**Trustee**” in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “**Trustee**” shall mean or include each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “**Trustee**” as used with respect to the Securities of any series shall mean the Trustee with respect to Securities of that series.

“**Uniform Commercial Code**” means the Uniform Commercial Code in effect in the State of Delaware or the State of New York, as applicable, in each case as amended from time to time.

“**Unrestricted Definitive Security**” means one or more definitive Securities that do not bear and are not required to bear the Private Placement Legend.

“**Unrestricted Global Security**” means a Global Security that is deposited with or on behalf of and registered in the name of the Depository, representing a series of Securities, and that does not bear the Private Placement Legend.

“**U.S. Government Obligation**” has the meaning specified in Section 1304.

“**U.S. Person**” means a U.S. person as defined in Rule 902(k) under the Securities Act.

“**Vice President**,” means any executive vice president and any senior vice president, whether or not designated by a number or a word or words added before or after the title “executive vice president” or “senior vice president.”

SECTION 102. Compliance Certificates and Opinions. Upon any application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall furnish to the Trustee a Company Order or Company Request, accompanied by an Officers’ Certificate and Opinion of Counsel. Each such certificate or opinion shall be given in the form of an Officers’ Certificate, if to be given by an Officer, 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.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

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

SECTION 103. 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 any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer may be based, insofar as it relates to legal matters, upon a certificate or opinion of, 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 certificate or opinion is based are erroneous. Any such certificate or opinion of, or representation by, 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 officer, unless such counsel knows that the certificate or opinion or representations with respect to such matters are 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 104. Acts of Holders; Record Dates. Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by or pursuant to 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 or agents 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. Reasonable 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 601) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section 104.

Without limiting the generality of this Section 104, unless otherwise provided in or pursuant to this Indenture, (i) a Holder, including a Depository or its nominee that is a Holder of a Global Security, may give, make or take, by an agent or agents duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted in or pursuant to this Indenture to be given, made or taken by Holders, and a Depository or its nominee that is a Holder of a Global Security may duly appoint in writing as its agent or agents members of, or participants in, such Depository holding interests in such Global Security in the records of such Depository; and (ii) with respect to any Global Security the Depository for which is The Depository Trust Company (“**DTC**”), any consent or other action given, made or taken by an “agent member” of DTC by electronic means in accordance with the Automated Tender Offer Procedures (“**ATOP**”) system or other Applicable Procedures of, and pursuant to authorization by, DTC shall be deemed to constitute the “**Act**” of the Holder of such Global Security, and such Act shall be deemed to have been delivered to the Company and the Trustee upon the delivery by DTC of an “agent’s message” or other notice of such consent or other action having been so given, made or taken in accordance with the Applicable Procedures of DTC.

The fact and date of the execution by any Person of any instrument or writing may be proved by any reasonable method including 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 the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. In addition, 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 or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

With respect to Securities of any series, the Company may set any day as a record date for the purpose of determining the Holders of Outstanding Securities of such 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 set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving, making or taking 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 give, make or take the relevant action, whether or not such Holders remain Holders after such record date; *provided, however*, that no such action shall be effective hereunder unless given, made or taken on or prior to the applicable Expiration Date by Holders of the requisite 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 cancelled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action given, made or taken by Holders of the requisite principal amount of Outstanding Securities of the relevant series on the date such action is given, made or 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 105 and 106.

The Trustee may 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, making or taking of (i) any Notice of Default, (ii) any declaration of acceleration referred to in Section 502, (iii) any request to institute proceedings referred to in Section 507(2) or (iv) any direction referred to in Section 512, 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 give, make or take such notice, declaration, request or direction, whether or not such Holders remain Holders after such record date; *provided, however*, that no such action shall be effective hereunder unless given, made or taken on or prior to the applicable Expiration Date by Holders of the requisite 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 cancelled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action given, made or taken by Holders of the requisite principal amount of Outstanding Securities of the relevant series on the date such action is given, made or 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 105 and 106.

With respect to any record date set pursuant to this Section 104, 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 106, 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 104, the party hereto which set such record date shall be deemed to have initially designated the 180th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date to an earlier day as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 180th day after the applicable record date.

Without limiting the foregoing, a Holder entitled hereunder to give, make or take any action hereunder with regard to any particular Security may do so, in person or by an agent duly appointed in writing, with regard to all or any part of the principal amount of such Security.

SECTION 105. Notices, Etc., to Trustee, 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 (unless otherwise herein expressly provided) if made, given, furnished or filed in writing and delivered in Person, mailed by first class mail (registered or certified, return receipt requested), sent by overnight courier guaranteeing next Business Day delivery to or with the Trustee addressed to it at its Corporate Trust Office or (2) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if made, given, furnished or filed in writing and delivered in Person, mailed by first class mail (registered or certified, return receipt requested), sent by overnight courier guaranteeing next Business Day delivery, to the Company or such Guarantor addressed to it at the address of its principal office specified in the first paragraph of this instrument, Attention: Chief Financial Officer, with a copy to Baker Botts L.L.P., 910 Louisiana Street, Houston, Texas 77002, Attention: Clint Rancher, or at any other address previously furnished in writing to the Trustee by the Company including any email address.

All requests, demands, authorizations, directions, notices, consents, waivers or Acts of Holders or other such documents made, given, furnished or filed with or to the Trustee or the Company shall be deemed to have been duly made, given furnished or filed: (i) at the time delivered by hand, if personally delivered; (ii) upon confirmation of delivery, if mailed by first class mail (registered or certified, return receipt requested), if mailed; (iii) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next Business Day delivery; and (iv) when receipt is acknowledged, if transmitted by electronic transmission or other similar means of unsecured electronic communication. Notices given by publication will be deemed given on the first date on which publication is made.

The Trustee shall have the right to accept and act upon any notice, instruction, or other communication from the Company, including any funds transfer instruction (each, a “**Notice**”), received pursuant to this Indenture by electronic transmission (including by e-mail, web portal or other electronic methods) and reasonably believed by the Trustee to be valid and the Trustee shall not have any duty to confirm that the person sending such Notice is, in fact, a person authorized to do so, and furthermore (i) the Trustee shall not have any liability for any losses, liabilities, costs or expenses incurred or sustained directly or indirectly by any party as a result of such reliance upon or compliance with such instructions, directions, reports, notices or other communications or information and (ii) the Company and any other sending party agrees to assume all risks arising out of the use of electronic methods to submit instructions, directions, reports, notices or other communications or information to the Trustee, including the risk of the Trustee acting on unauthorized instructions, notices, reports or other communications or information, and the risk of interception and misuse by third parties.

Electronic signatures reasonably believed by the Trustee to comply with the ESIGN Act of 2000 or other applicable law (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Adobe Sign or any other digital signature provider identified by any other party hereto and acceptable to the Trustee) shall be deemed original signatures for all purposes. Notwithstanding the foregoing, the Trustee may require that a Notice in the form of an original document bearing a manual signature be delivered to the Trustee in lieu of, or in addition to, any such electronic Notice.

Notwithstanding anything to the contrary in this Indenture or the Securities, any notice to the Trustee shall be deemed given when actually received.

Notwithstanding anything to the contrary in this Indenture or the Securities, (A) whenever any provision of this Indenture requires a party to send notice to another party, no such notice need be sent if the sending party and the recipient are the same Person acting in different capacities, and (B) whenever any provision of this Indenture requires a party to send notice to more than one receiving party, and each receiving party is the same Person acting in different capacities, then only one such notice need be sent to the Person.

SECTION 106. Notice to Holders; Waiver. Where this Indenture provides for notice or other communication to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if given in writing and mailed by first class mail (registered or certified, return receipt requested) or sent by overnight air courier guaranteeing next Business Day delivery, to each Holder affected by such event, at such Holder's address as it appears in the Security Register, not later than the latest date (if any), and not earlier than the earliest date (if any), prescribed for the giving of such notice or other communication. Any notice or other communication shall also be so mailed or sent to any Person described in Section 313(c) of the Trust Indenture Act, to the extent required by the Trust Indenture Act. Failure to mail or send a notice or other communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed or sent in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it. Where this Indenture provides for notice or other communication in any manner, such notice or other communication may be waived in writing by the Person entitled to receive such notice or other communication, either before or after the event, and such waiver shall be the equivalent of such notice or other communication. Waivers of notice or other communication 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 the Company mails a notice or communication to the Holders, it shall mail a copy to the Trustee at the same time.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice or other communication by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

Notwithstanding anything to the contrary in this Indenture or the Securities, where this Indenture provides for notice or other communication with respect to any event to a Holder of a Global Security, such notice or other communication shall be sufficiently given if given to the Depository for such Security (or its designee), pursuant to its Applicable Procedures. The Trustee will not have any liability relating to the contents of any notice that it sends to any Holder pursuant to any Company Order or Company Request.

SECTION 107. Trust Indenture Act Matters. If any provision hereof limits, qualifies or conflicts with a provision of the Trust Indenture Act which is required under such Act to be a part of and govern this Indenture, the latter 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. Whenever this Indenture refers to a provision of the Trust Indenture Act, the provision is incorporated by reference in and made a part of this Indenture.

SECTION 108. 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 109. Successors and Assigns. All covenants and agreements in this Indenture and the Securities by the Company and the Trustee, in accordance with Article VIII, shall bind their respective successors and assigns, whether so expressed or not.

SECTION 110. 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 111. Benefits of Indenture. Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture, except as may otherwise be provided pursuant to Section 301 with respect to any Securities of a particular series or under this Indenture with respect to such Securities.

SECTION 112. Governing Law. This Indenture and the Securities and the rights and obligations of the parties hereto and thereto shall be governed by and construed in accordance with the law of the State of New York.

SECTION 113. Legal Holidays. In any case where any Interest Payment Date, Redemption Date or Maturity of any Security, or any date on which a Holder has the right to convert his Security, shall not be a Business Day at any Place of Payment, then (notwithstanding any other provision of this Indenture or of the Securities (other than a provision of any Security which specifically states that such provision shall apply in lieu of this Section 113)) payment of interest or principal (and premium, if any), or conversion of such Security need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on the Interest Payment Date or Redemption Date, or at the Maturity, or on such date for conversion, as the case may be and no interest shall accrue for the period from and after such Interest Payment Date, Redemption Date or Maturity, as the case may be, if payment is made on the next succeeding Business Day.

SECTION 114. No Adverse Interpretation of Other Agreements. This Indenture may not be used to interpret any other indenture, loan or other agreement of the Company or any Guarantor or any Subsidiaries thereof or of any other Person. Any such indenture, loan or other agreement may not be used to interpret this Indenture.

SECTION 115. No Personal Liability of Directors, Officers, Employees and Stockholders. No past, present or future director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or any Guarantor, respectively, 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. The waiver and release are part of the consideration for issuance of the Securities. The waiver may not be effective to waive liabilities under the federal securities laws.

SECTION 116. Language of Notices, Etc. Any request, demand, authorization, direction, notice, consent, waiver, other action or Act provided or permitted under this Indenture shall be in the English language, except that any published notice may be in an official language of the country of publication.

SECTION 117. Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, epidemics, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 118. Waiver of Jury Trial. EACH OF THE COMPANY, EACH GUARANTOR AND THE TRUSTEE HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS INDENTURE.

SECTION 119. Counterparts. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument. Delivery of an executed counterpart of this Indenture by facsimile or electronic transmission shall be equally as effective as delivery of an original executed counterpart of this Indenture. Any party delivering an executed counterpart of this Indenture by facsimile or electronic transmission also shall deliver an original executed counterpart of this Indenture, but failure to deliver an original executed counterpart shall not affect the validity, enforceability and binding effect of this Indenture. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this Indenture or any document to be signed in connection with this Indenture shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means.

ARTICLE II  
SECURITY FORMS

SECTION 201. Forms Generally. As to each series of Securities, the Securities of such series shall be in substantially the form set forth in this Article, or in such other form as shall be established by or pursuant to a Board Resolution or in one or more indentures supplemental hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, 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 the rules of any securities exchange or Depository therefor or as may, consistently herewith, be determined by the officers executing such Securities as evidenced by their execution thereof. If the form of Securities of any series is 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 Company Order contemplated by Section 303 for the authentication and delivery of such Securities.

The definitive Securities may be produced in any manner as determined by the officers of the Company executing such Securities.

SECTION 202. Form of Face of Security.

*[Insert any legend required by the Internal Revenue Code and the regulations thereunder.]*

No.

CUSIP [ ]  
\$

CVR ENERGY, INC., a corporation duly organized and existing under the laws of the State of Delaware (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 on [if the Security is to bear interest prior to Maturity, insert — , and to pay interest thereon from <sup>(1)</sup> 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, and at the Maturity thereof, at the rate of % per annum, until the principal hereof is paid or made available for payment, provided that any 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 date such overdue amount is due until such amount is paid or duly provided for, and such interest on any overdue amount shall be payable on demand]. The interest so payable, and punctually paid or duly provided for, 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. Any such interest so payable, but not 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 in any other lawful manner not inconsistent with the requirements of any securities exchange on which this Security may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture.

(1) If the Securities of the applicable series are to be sold “flat,” insert the date of original issuance of Securities of such series. If the Securities of the applicable series are to be issued “with accrued interest,” insert the Interest Payment Date for Securities of such series next preceding the date of original issuance of Securities of such series.

*[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 [if applicable, insert — any such] interest on this Security will be made at the office or agency of the Company maintained for that purpose in New York, New York, 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 thereof or any payment of interest becomes payable on a day other than an Interest Payment Date; *provided, however*, that if this Security is not a Global Security, (i) payment of interest on an Interest Payment Date will be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register; and all other payments will be made by check against surrender of this Security; (ii) all payments by check will be made in next-day funds (*i.e.*, funds that become available on the day after the check is cashed); and (iii) notwithstanding clauses (i) and (ii) above, with respect to any payment of any amount due on this Security, if this Security is in a denomination of at least \$1,000,000 and the Holder hereof at the time of surrender hereof or, in the case of any payment of interest on any Interest Payment Date, the Holder thereof on the related Regular Record Date delivers a written request to the Paying Agent to make such payment by wire transfer at least five Business Days before the date such payment becomes due, together with appropriate wire transfer instructions specifying an account at a bank in New York, New York, the Company shall make such payment by wire transfer of immediately available funds to such account at such bank in New York City, any such wire instructions, once properly given by a Holder as to this Security, remaining in effect as to such Holder and this Security unless and until new instructions are given in the manner described above; *provided further*, that notwithstanding anything in the foregoing to the contrary, if this Security is a Global Security, payment shall be made pursuant to the Applicable Procedures of the 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, 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 signed by its duly authorized officers.

CVR Energy, Inc.,  
a Delaware corporation

By: \_\_\_\_\_  
Name:  
Title:

SECTION 203. Form of Reverse of Security. This Security is one of a duly authorized issue of senior securities of the Company (herein called the “**Securities**”), issued and to be issued in one or more series under an Indenture, dated as of [ ], [ ] (herein called the “**Indenture**”, which term shall have the meaning assigned to it in such instrument), between the Company and U.S. Bank Trust Company, 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 for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, 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 \$* ].

This Security is the general, unsecured, senior obligation of the Company [if applicable, insert—and is guaranteed pursuant to a guarantee (the “**Guarantee**”) by [insert name of each Guarantor] (the “**Guarantors**”). The Guarantee by each Guarantor is the general, unsecured, senior obligation of such Guarantor].

[If applicable, insert — *The Securities of this series are subject to redemption upon not less than 10 days’ nor more than 60 days’ notice, 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 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 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 10 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,*

Year	Redemption Price For Redemption Through Operation of the Sinking Fund	Redemption Price For Redemption Otherwise Than Through Operation of the Sinking Fund
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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 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 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 (i) of the amount of principal so declared due and payable and (ii) 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 in respect of the payment of the principal of and premium and interest, if any, on the Securities of this series shall terminate.]

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than a majority in principal amount (including consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) (1) of all Securities at the time Outstanding (voting as a single class) or (2) if fewer than all of the series of the Securities at the time Outstanding are to be affected by such amendment or modification, of the series to be affected (voting as a single class), except as may otherwise be provided pursuant to the Indenture for all or any specific Securities of any series. The Indenture also contains provisions (i) permitting the Holders of not less than a majority in principal amount (including waivers obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) (a) of the Securities at the time Outstanding (voting as a single class) or (b) if fewer than all of the series of the Securities at the time Outstanding are to be affected by such amendment or modification, of the series of the Securities to be affected (voting as a single class), on behalf of the Holders of all Securities or all Securities of such series so affected, as applicable, to waive compliance by the Company with certain provisions of the Indenture and (ii) permitting the Holders of not less than a majority in principal amount (including waivers obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) of (a) the Securities at the time Outstanding (voting as a single class) or (b) if fewer than all of the series of the Securities at the time Outstanding are to be affected, of any series to be affected under the Indenture (voting as a single class), on behalf of the Holders of all Securities or all Securities of such series so affected, as applicable, to waive certain past defaults under the Indenture with respect to all Securities, or such series, as applicable, and their consequences, in the case of Clause (i) or (ii), except as may otherwise be provided pursuant to the Indenture for all or any specific Securities of any series. 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 or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

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 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 security or indemnity satisfactory to it, and the Trustee shall not have received from the Holders of a majority in 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 security or 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 his 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 \$2,000 and any integral multiple of \$1,000 in excess 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, other than exchanges pursuant to Section 304, 906 or 1107 of the Indenture not involving any transfer.

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 none of the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

[If this Security is a Global Security, insert — This Security is a Global Security and is subject to the provisions of the Indenture relating to Global Securities, including the limitations therein on transfers and exchanges of Global Securities.]

This Security and the Indenture shall be governed by and construed in accordance with the law of the State of New York.

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

SECTION 204. Form of Trustee's Certificate of Authentication. 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.

Dated: U.S. Bank Trust Company, National Association,  
as Trustee  
By: \_\_\_\_\_  
Authorized Signatory

SECTION 205. Special Transfer Provisions.

(1) *Transfer and Exchange of Beneficial Interests in Restricted Global Securities.* The transfer and exchange of beneficial interests in the Global Securities shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Securities shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Securities also shall require compliance with either Clause (A) or (B) below, as applicable, as well as one or more of the other following subclauses, as applicable:

(A) *Transfer of Beneficial Interests in the Same Restricted Global Security.* Beneficial interests in any Restricted Global Security may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Security in accordance with the transfer restrictions set forth in the Private Placement Legend; provided, however, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Legended Regulation S Global Security may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than any Initial Purchaser or any U.S. Person that will take delivery if the form of an interest in a Restricted Security). Beneficial interests in any Unrestricted Global Security may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Security. No written orders or instructions shall be required to be delivered to the Security Registrar to effect the transfers described in this Section 205(1)(A).

(B) *All Other Transfers and Exchanges of Beneficial Interests in Global Securities.* In connection with all transfers and exchanges of beneficial interests that are not subject to Section 205(1)(A) above, the transferor of such beneficial interest must deliver to the Security Registrar (1) a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Security in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase. Upon consummation of an Exchange Offer by the Company in accordance with Section 205(3), the requirements of this Section 205(1)(B) shall be deemed to have been satisfied upon receipt by the Registrar of the instructions contained in the Letter of Transmittal delivered by the holder of such beneficial interests in the Restricted Global Securities or, alternatively, if permitted by the Depositary's procedures, by delivery of a message (an "*ATOP Message*") delivered pursuant to the Depositary's ATOP, or similar electronic system. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Securities contained in this Indenture and the Securities or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Securities pursuant to Section 205(6).

(C) *Transfer of Beneficial Interests to Another Restricted Global Security.* A beneficial interest in any Restricted Global Security may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Security if the transfer complies with the requirements of Section 205(1)(A) above and the Securities Registrar receives the following:

(i) if the transferee shall take delivery in the form of a beneficial interest in the 144A Global Security, then the transferor must deliver a certificate in a form reasonably acceptable to the Securities Registrar and the Company; and

(ii) if the transferee shall take delivery in the form of a beneficial interest in a Legended Regulation S Global Security, then the transferor must deliver a certificate in a form reasonably acceptable to the Securities Registrar and the Company.

(D) *Transfer and Exchange of Beneficial Interests in a Restricted Global Security for Beneficial Interests in an Unrestricted Global Security.* A beneficial interest in any Restricted Global Security may be exchanged by any Holder thereof for a beneficial interest in an Unrestricted Global Security or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Security if the exchange or transfer complies with the requirements of Section 205(1)(A) above and:

(i) such exchange or transfer is effected pursuant to an Exchange Offer in accordance with an applicable Registration Rights Agreement and the Holder of the beneficial interest to be transferred, in the case of an exchange, or the transferee, in the case of a transfer, certifies in writing (1) it is not an affiliate (as defined in Rule 144 under the Securities Act) of the Company, (2) it is not engaged in, and does not intend to engage in, and has no arrangement or understanding with any Person to participate in, a distribution of the Exchange Securities to be issued in such Exchange Offer and (3) it is acquiring the Exchange Securities in its ordinary course of business;

(ii) such transfer is effected pursuant to a Shelf Registration Statement in accordance with the applicable Registration Rights Agreement;

(iii) such transfer is effected by a Broker Dealer pursuant to an Exchange Offer Registration Statement in accordance with the applicable Registration Rights Agreement; or

(iv) the Securities Registrar receives the following:

- (a) if the holder of such beneficial interest in a Restricted Global Security proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Security, a certificate from such holder in a form reasonably acceptable to the Securities Registrar and the Company; or
- (b) if the holder of such beneficial interest in a Restricted Global Security proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Security, a certificate from such holder in a form reasonably acceptable to the Securities Registrar and the Company;

and, in each such case set forth in this subclause (iv), if the Securities Registrar or the Company so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Securities Registrar and the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer pursuant to this Section 205(1) is effected at a time when a Global Security has not yet been issued, the Company shall issue and, upon receipt of a Company Order in accordance with Section 303 hereof, the Trustee shall authenticate one or more Global Securities in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred.

Beneficial interests in an Unrestricted Global Security cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Security.

(2) *Transfer and Exchange of Definitive Securities for Definitive Securities.* Upon request by a Holder of definitive Securities and such Holder's compliance with the provisions of this Section 205(2), the Securities Registrar shall register the transfer or exchange of definitive Securities. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the definitive Securities duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Securities Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 205(2).

(A) *Restricted Definitive Securities to Restricted Definitive Securities.* Any Restricted Definitive Security may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Security if the Registrar receives the following:

(i) if the transfer shall be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form reasonably acceptable to the Securities Registrar and the Company; and

(ii) if the transfer shall be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in a form reasonably acceptable to the Securities Registrar and the Company.

(B) *Restricted Definitive Securities to Unrestricted Definitive Securities.* Any Restricted Definitive Security may be exchanged by the Holder thereof for an Unrestricted Definitive Security or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Security if:

(i) such exchange or transfer is effected pursuant to an Exchange Offer in accordance with the applicable Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in writing that (1) it is not an affiliate (as defined in Rule 144 under the Securities Act) of the Company, (2) it is not engaged in, and does not intend to engage in, and has no arrangement or understanding with any Person to participate in, a distribution of the Exchange Securities to be issued in such Exchange Offer and (3) it is acquiring the Exchange Securities in its ordinary course of business;

(ii) any such transfer is effected pursuant to a Shelf Registration Statement in accordance with the applicable Registration Rights Agreement;

(iii) any such transfer is effected by a Broker Dealer pursuant to an Exchange Offer Registration Statement in accordance with the applicable Registration Rights Agreement; or

(iv) the Securities Registrar receives a certificate from such Holder in a form reasonably acceptable to the Securities Registrar and the Company and, if the Securities Registrar so requests, an opinion of counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(C) *Unrestricted Definitive Securities to Unrestricted Definitive Securities*. A Holder of Unrestricted Definitive Securities may transfer such Securities to a Person who takes delivery thereof in the form of an Unrestricted Definitive Security. Upon receipt of a request to register such a transfer, the Securities Registrar shall register the Unrestricted Definitive Securities pursuant to the instructions from the Holder thereof.

(3) *Exchange Offer*. Upon the occurrence of an Exchange Offer in accordance with the applicable Registration Rights Agreement, the Company shall issue and, upon receipt of a Company Order in accordance with Section 303, the Trustee shall authenticate (i) one or more Unrestricted Global Securities in an aggregate principal amount equal to the principal amount of the beneficial interests in the Restricted Global Securities tendered for acceptance by Persons that certify in the applicable Letters of Transmittal that (x) they are not affiliates (as defined in Rule 144 under the Securities Act) of the Company, (y) they are not engaged in, and do not intend to engage in, and have no arrangement or understanding with any Person to participate in, a distribution of the Exchange Securities to be issued in such Exchange Offer and (z) they are acquiring the Exchange Securities in their ordinary course of business and (ii) Unrestricted Definitive Securities in an aggregate principal amount equal to the principal amount of the Restricted Definitive Securities accepted for exchange in the Exchange Offer. Concurrently with the issuance of such Securities, the Trustee shall cause the aggregate principal amount of the applicable Restricted Global Securities to be reduced accordingly, and the Company shall execute and the Trustee shall authenticate and deliver to the Persons designated by the Holders of Restricted Global Securities so accepted Unrestricted Global Securities in the appropriate principal amount.

(4) *Private Placement Legend*. Except as permitted below, each Global Security and each definitive Security (and all Securities issued in exchange therefor or substitution thereof) that are not registered under the Securities Act shall bear a legend in substantially the following form:

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND ACCORDINGLY, MAY NOT BE OFFERED OR SOLD WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS EXCEPT AS SET FORTH IN THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF, THE HOLDER (1) REPRESENTS THAT (A) IT IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) OR (B) IT IS NOT A U.S. PERSON AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT, (2) AGREES THAT IT WILL NOT, PRIOR TO THE EXPIRATION OF THE HOLDING PERIOD APPLICABLE TO SALES OF THE SECURITIES UNDER RULE 144 UNDER THE SECURITIES ACT AS IN EFFECT ON THE DATE OF THE TRANSFER OF THIS SECURITY, OFFER, RESELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY EXCEPT (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, (B) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT, TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT; (C) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT, (D) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (E) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, OR (F) PURSUANT TO ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (3) AGREES THAT IT WILL DELIVER TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND. IN CONNECTION WITH ANY TRANSFER OF THIS SECURITY WITHIN THE TIME PERIOD REFERRED TO ABOVE, THE HOLDER MUST CHECK THE APPROPRIATE BOX SET FORTH ON THE REVERSE HEREOF RELATING TO THE MANNER OF SUCH TRANSFER AND SUBMIT THIS CERTIFICATE TO THE TRUSTEE. AS USED HEREIN, THE TERMS "OFFSHORE TRANSACTION," "UNITED STATES" AND "U.S. PERSON" HAVE THE MEANINGS GIVEN TO THEM BY REGULATION S UNDER THE SECURITIES ACT. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF A HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.

Notwithstanding the foregoing, any Global Security or definitive Security issued pursuant to Clauses (1)(D), (2)(B), (2)(C) or (3) to this Section 205 (and all Securities issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(5) *Regulation S Global Security Legend.* Each Regulation S Global Security shall bear a legend in substantially the following form:

THE RIGHTS ATTACHING TO THIS REGULATION S GLOBAL SECURITY, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR OTHER SECURITIES OF THIS SERIES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN).

(6) *Cancellation and/or Adjustment of Global Securities.* At such time as all beneficial interests in a particular Global Security have been exchanged for definitive Securities or a particular Global Security has been redeemed, repurchased or canceled in whole and not in part, each such Global Security shall be returned to or retained and canceled by the Trustee in accordance with Section 309 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Security is exchanged for or transferred to a Person who shall take delivery thereof in the form of a beneficial interest in another Global Security or for definitive Securities, the principal amount of Securities represented by such Global Security shall be reduced accordingly and an endorsement shall be made on such Global Security by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who shall take delivery thereof in the form of a beneficial interest in another Global Security, such other Global Security shall be increased accordingly and an endorsement shall be made on such Global Security by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(7) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depositary participants, members or beneficial owners in any Global Security) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

### ARTICLE III THE SECURITIES

SECTION 301. Amount Unlimited; Issuable in Series. The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to a Board Resolution, and, subject to Section 303, 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) 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 Section 304, 305, 306, 906 or 1107 and except for any Securities which, pursuant to Section 303, are deemed never to have been authenticated and delivered hereunder);

(3) 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;



(4) the date or dates on which the principal of any Securities of the series is payable;

(5) the rate or rates at which any Securities of the series shall bear interest, if any, 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;

(6) the place or places where the principal of and any premium and interest on any Securities of the series shall be payable and the manner in which any payment may be made;

(7) the period or periods within which, the price or prices at which and the terms and conditions upon which any Securities of the series may be redeemed, in whole or in part, at the option of the Company and, if other than by a Board Resolution, the manner in which any election by the Company to redeem the Securities shall be evidenced;

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

(9) if other than denominations of \$2,000 and any integral multiple of \$1,000 in excess thereof, the denominations in which any Securities of the series shall be issuable;

(10) if the amount of principal of or any premium or interest on any Securities of the series may be determined with reference to an index or pursuant to a formula, the manner in which such amounts shall be determined;

(11) if other than the currency of the United States of America, the currency, currencies, composite currency, composite 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 the purposes of making payment in the currency of the United States of America and applying the definition of "Outstanding" in Section 101;

(12) 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, composite currencies or currency units other than that or those in which such Securities are stated to be payable, the currency, currencies, composite currency, composite 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);

(13) 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 502;

(14) 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);

(15) if applicable, that the Securities of the series, in whole or any specified part, shall not be defeasible pursuant to Section 1302 or Section 1303 or both such Sections, and, if such Securities may be defeased, in whole or in part, pursuant to either or both such Sections, any provisions to permit a pledge of obligations other than U.S. Government Obligations (or the establishment of other arrangements) to satisfy the requirements of Section 1304(1) for defeasance of such Securities and, if other than by a Board Resolution, the manner in which any election by the Company to defease such Securities shall be evidenced;

(16) 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, the respective Depositaries 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 those set forth in Sections 205(4) and 205(5), any addition to, elimination of or other change in the circumstances set forth in Clause (2) of the penultimate paragraph of Section 305 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 Depositary for such Global Security or a nominee thereof and any other provisions governing exchanges or transfers of any such Global Security;

(17) any addition to, elimination of or other 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 502;

(18) any addition to, elimination of or other change in the covenants set forth in Article X which applies to Securities of the series;

(19) any provisions necessary to permit or facilitate the issuance, payment or conversion of any Securities of the series that may be converted into securities or other property other than Securities of the same series and of like tenor, whether in addition to, or in lieu of, any payment of principal or other amount and whether at the option of the Company or otherwise;

(20) if applicable, that Persons other than those specified in Section 111 shall have such benefits, rights, remedies and claims with respect to any Securities of the series or under this Indenture with respect to such Securities, as and to the extent provided for such Securities;

(21) any change in the actions permitted or required under this Indenture to be taken by or on behalf of the Holders of the Securities of the series, including any such change that permits or requires any or all such actions to be taken by or on behalf of the Holders of any specific Securities of the series rather than or in addition to the Holders of all Securities of the series;

(22) any provisions for subordination of any Securities of the series to other indebtedness of the Company (including Securities of other series); and

(23) any other terms of the series (which terms shall not be inconsistent with the provisions of this Indenture, except as permitted by Section 901(5)).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to the Board Resolution referred to above and (subject to Section 303) set forth, or determined in the manner provided, in the Officers' Certificate referred to above or in any such indenture supplemental hereto. All Securities of any one series need not be issued at the same time and, unless otherwise provided pursuant to this Section 301 for any series, after issuance of Securities of such series, such series may be reopened for issuances of additional Securities of that series.

The terms of any Security of a series may differ from the terms of other Securities of the same series, if and to the extent provided pursuant to this Section 301. The matters referenced in any or all of Clauses (1) through (23) above may be established and set forth or determined as aforesaid with respect to all or any specific Securities of a series (in each case to the extent permitted by the Trust Indenture Act).

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.

No Board Resolution or Officer's Certificate may affect the Trustee's own rights, duties or immunities under this Indenture or otherwise with respect to any series of Securities except as it may agree in writing.

The Trustee and each agent are hereby authorized to act in accordance with Applicable Procedures in with respect to any Global Security.

SECTION 302. Denominations. 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 301. 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 \$2,000 and any integral multiple of \$1,000 in excess thereof.

SECTION 303. Execution, Authentication, Delivery and Dating. The Securities shall be executed on behalf of the Company by its Chairman of the Board, President or Chief Executive Officer, Chief Financial Officer, or a Vice President of the Company (or any other officer of the Company designated in a Board Resolution and delivered to the Trustee from time to time). The signature of any of these officers on the Securities may be in accordance with Section 106 and 1306.

[*if applicable, insert* — Securities bearing the 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, and the Trustee in accordance with the Company Order shall authenticate and deliver such Securities. The Trustee shall be entitled to receive, and (subject to Section 601) shall be fully protected in relying upon, an Opinion of Counsel stating,

(1) if the form of such Securities has been established by or pursuant to Board Resolution, as permitted by Section 201, that such form has been established in conformity with the provisions of this Indenture;

(2) if the terms of such Securities have been established by or pursuant to Board Resolution as permitted by Section 301, that such terms have been established in conformity with the provisions of this Indenture; and

(3) for any issuance of Securities, that when such Securities have been authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, such Securities will constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent conveyance or transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles and subject to any limitation with respect to payments in currency other than U.S. dollars.

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

Notwithstanding the provisions of Section 301 and of the preceding paragraph, if all Securities of a series are not to be originally issued at one time, it shall not be necessary to deliver the Officers' Certificate otherwise required pursuant to Section 301 or the Company Order, and Opinion of Counsel otherwise required pursuant to such preceding paragraph at or prior to the authentication of each Security of such series if such documents are delivered at or prior to the authentication upon original issuance of the first Security of such series to be issued and cover subsequent issuances of Securities.

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 executed by the Trustee, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder. Notwithstanding the foregoing, if any Security shall have been 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 309, 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 304. 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 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.

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 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.

SECTION 305. Registration, Registration of Transfer and Exchange. The Company shall cause to be kept at each office or agency of the Company designated as a Place of Payment pursuant to the first paragraph of Section 1002 a register (the register, maintained in each such office or agency of the Company designated as 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 appointed “**Security Registrar**” for the purpose of registering Securities and transfers of Securities as herein provided. The Company shall cause each of the Security Registrar and the Paying Agent to maintain an office or agency in the Borough of Manhattan, The City of New York.

Upon surrender for registration of transfer of any Security of a series at the office or agency of the Company in a Place of Payment for that series, 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 the same series, of any authorized denominations and of like tenor and aggregate principal amount.

At the option of the Holder, Securities of any series may be exchanged for other Securities of the same series, of any authorized denominations and of like tenor and aggregate principal amount, 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.

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 304, 906 or 1107 not involving any transfer.

If the Securities of any series (or of any series and specified tenor) are to be redeemed in whole or in part, the Company shall not be required (A) to issue, register the transfer of or exchange any Securities of that 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 selection of any such Securities for redemption under Section 1103 and ending at the close of business on the day of such selection (or during such period as otherwise specified pursuant to Section 301 for such Securities), 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) and (4) below shall apply only to Global Securities:

(1) Each Global Security authenticated under this Indenture shall be registered in the name of the Depositary designated for such Global Security or a nominee thereof and delivered to such Depositary 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 in this Indenture, and subject to such applicable provisions, if any, as may be specified as contemplated by Section 301, 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 Depositary for such Global Security or a nominee thereof unless (A) such Depositary has notified the Company that it (i) is unwilling or unable to continue as Depositary for such Global Security or (ii) has ceased to be a clearing agency registered under the Exchange Act, or (B) the Company has executed and delivered to the Trustee a Company Order stating that such Global Security shall be exchanged in whole for Securities that are not Global Securities (in which case such exchange shall promptly be effected by the Trustee). If the Company receives a notice of the kind specified in Clause (A) above or has delivered a Company Order of the kind specified in Clause (B) above, it may, in its sole discretion, designate a successor Depositary for such Global Security within 90 days after receiving such notice or delivery of such order, as the case may be. If the Company designates a successor Depositary as aforesaid, such Global Security shall promptly be exchanged in whole for one or more other Global Securities registered in the name of the successor Depositary, whereupon such designated successor shall be the Depositary for such successor Global Security or Global Securities and the provisions of Clauses (1), (2), (3) and (4) of this provision shall continue to apply thereto.

(3) Subject to Clause (2) above and to such applicable provisions, if any, as may be specified as contemplated by Section 301, 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 Depositary for such Global Security shall direct.

(4) 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 305, Section 304, 306, 906 or 1107 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 Depositary for such Global Security or a nominee thereof.

Every Person who takes or holds any beneficial interest in a Global Security agrees that:

(1) the Company and the Trustee may deal with the Depositary as sole owner of the Global Security and as the authorized representative of such Person;

(2) such Person's rights in the Global Security shall be exercised only through the Depositary and shall be limited to those established by law and agreement between such Person and the Depositary and/or direct and indirect participants of the Depositary;

(3) the Depositary and its participants make book-entry transfers of beneficial ownership among, and receive and transmit distributions of principal and interest on the Global Securities to, such Persons in accordance with the Applicable Procedures of the Depositary; and

(4) none of the Company, the Trustee nor any agent of the Company or the Trustee 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.

SECTION 306. Mutilated, Destroyed, Lost and Wrongfully Taken Securities. If (a) any mutilated Security is surrendered to the Trustee or (b) both (i) there shall be delivered to the Company and the Trustee (A) a claim by a Holder as to the destruction, loss or wrongful taking of any Security of such Holder and a request thereby for a new replacement Security of the same series, and (B) such indemnity bond as may be required by them to save each of them and any agent of either of them harmless and (ii) such other reasonable requirements as may be imposed by the Company as permitted by Section 8-405 of the Uniform Commercial Code have been satisfied, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a “protected purchaser” within the meaning of Section 8-405 of the Uniform Commercial Code, the Company shall execute and upon its request the Trustee shall authenticate and deliver, in lieu of any such mutilated, destroyed, lost or wrongfully taken Security, a new Security of the same series and of like tenor and principal amount and bearing a number not contemporaneously Outstanding.

In case any such mutilated, destroyed, lost or wrongfully taken 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 Security under this Section 306, 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 306 in lieu of any destroyed, lost or wrongfully taken Security shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or wrongfully taken Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of that series duly issued hereunder.

The provisions of this Section 306 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 wrongfully taken Securities.

SECTION 307. Payment of Interest; Interest Rights Preserved. Except as otherwise provided as contemplated by Section 301 with respect to any Securities of a series, 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 (or, if no business is conducted by the Trustee at its Corporate Trust Office on such date, at 5:00 P.M. New York City time on such date).

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 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 payable on any Securities of a series to the Persons in whose names such Securities (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 of such Securities and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money 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 Trustee 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 Trustee shall promptly notify the Company 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 given to each Holder of such Securities in the manner set forth in Section 106, 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 or sent, such Defaulted Interest shall be paid to the Persons in whose names such Securities (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). Before the Trustee takes any action under this Section 307, the Company will deliver to Trustee a Company Order.

(2) The Company may make payment of any Defaulted Interest on any Securities of a 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.

The Trustee shall not at any time be under any duty or responsibility to the Holders to determine the defaulted interest, or with respect to the nature, extent, or calculation of the amount of defaulted interest owed, or with respect to the method employed in such calculation of the defaulted interest.

Except as may otherwise be provided in this Section 307 or as contemplated in Section 301 with respect to any Securities of a series, the Person to whom interest shall be payable on any Security that first becomes payable on a day that is not an Interest Payment Date shall be the Holder of such Security on the day such interest is paid.

Subject to the foregoing provisions of this Section 307, 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.

In the case of any Security which is converted after any Regular Record Date and on or prior to the next succeeding Interest Payment Date (other than any Security whose Maturity is prior to such Interest Payment Date), interest whose Stated Maturity is on such Interest Payment Date shall be payable on such Interest Payment Date notwithstanding such conversion, and such interest (whether or not punctually paid or duly provided for) 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 such Regular Record Date. Except as otherwise expressly provided in the immediately preceding sentence, in the case of any Security which is converted, interest whose Stated Maturity is after the date of conversion of such Security shall not be payable.

Notwithstanding the foregoing, the terms of any Security that may be converted may provide that the provisions of the immediately preceding paragraph do not apply, or apply with such additions, changes or omissions as may be provided thereby, to such Security.

SECTION 308. Persons Deemed Owners. Prior to due presentment of a Security for registration of transfer, the Company and the Trustee and any agent of the Company or the Trustee shall 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 and any premium and (subject to Section 307) any interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and none of the Company, the Trustee or any agent of the Company or the Trustee shall be affected by notice to the contrary.

SECTION 309. Cancellation. All Securities surrendered for payment, redemption, registration of transfer or exchange or conversion or for credit against any sinking fund payment shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled 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, 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 shall be promptly cancelled by the Trustee after receipt of Company Order. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section 309, except as expressly permitted by this Indenture. All cancelled Securities held by the Trustee shall be disposed of as directed by a Company Order and in accordance with Trustee's customary cancellation procedures; *provided, however*, that the Trustee shall not be required to destroy such cancelled Securities.

SECTION 310. Computation of Interest. Except as otherwise specified as contemplated by Section 301 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months.

SECTION 311. CUSIP Numbers. The Company, in issuing the Securities may use "CUSIP" and "ISIN" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" and "ISIN" 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 shall promptly notify the Trustee of any change in "CUSIP" or "ISIN" numbers.

ARTICLE IV  
SATISFACTION AND DISCHARGE

SECTION 401. Satisfaction and Discharge of Indenture. This Indenture shall upon Company Request cease to be of further effect with respect to the Securities of any series (except as to any surviving rights of conversion, registration of transfer or exchange of any such Security expressly provided for herein or in the terms of such Security), and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture with respect to such Securities, when:

(1) either

(A) all such Securities theretofore authenticated and delivered (other than (i) Securities which have been destroyed, lost or wrongfully taken and which have been replaced or paid as provided in Section 306 and (ii) Securities for the payment of which 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 1003) have been delivered to the Trustee for cancellation; or

(B) all such Securities 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 deposited or caused to be deposited with the Trustee as trust funds in trust for such purpose money in an amount sufficient to pay and discharge the entire indebtedness on such Securities 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 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 with respect to such Securities;

(3) no event which is, or after notice or lapse of time or both would become, an Event of Default with respect to such Securities or any other Securities (other than such an event or Event of Default with respect to such Securities resulting solely from the incurrence of indebtedness or other borrowing of funds, or the grant of liens securing such indebtedness or other borrowing, all or a portion of which are to be applied to such deposit) shall have occurred and be continuing at the time of such deposit;



(4) such deposit 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; 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 Securities have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture with respect to Securities of any series, the obligations of the Company to the Trustee under Section 607, the obligations of the Trustee to any Authenticating Agent under Section 614, and, if money shall have been deposited with the Trustee pursuant to subclause (B) of Clause (1) of this Section 401 with respect to such Securities, the obligations of the Company of such series under Section 1002 and the obligations of the Trustee under Section 402, Section 606 and the last paragraph of Section 1003 with respect to such Securities shall survive such satisfaction and discharge.

**SECTION 402. Application of Trust Money.** Subject to the provisions of the last paragraph of Section 1003, all money deposited with the Trustee pursuant to Section 401 with respect to Securities of any series shall be held in trust and applied by it, in accordance with the provisions of such 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 the Trustee. All moneys deposited with the Trustee pursuant to Section 401 (and held by it or any Paying Agent) for the payment of Securities subsequently converted shall be returned to the Company upon Company Request, to the extent originally deposited by the Company. The Company may direct by a Company Order the investment of any money deposited with the Trustee pursuant to Section 401, without distinction between principal and income, in (1) United States Treasury Securities with a maturity of one year or less or (2) a money market fund that invests solely in short term United States Treasury Securities and from time to time the Company may direct the reinvestment of all or a portion of such money in other securities or funds meeting the criteria specified in Clause (1) or (2) of this sentence.

## ARTICLE V REMEDIES

### SECTION 501. Events of Default.

Except as may otherwise be provided pursuant to Section 301 for all or any specific Securities of any series, "***Event of Default***," wherever used herein with respect to the Securities of that series, means any one of the following events (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; or

(2) default in the payment of the principal of or any premium on any Security of that series at its Maturity; or

(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 60 days; or

(4) default in the performance, or breach, of any covenant of the Company in this Indenture (other than a covenant a default in whose performance or whose breach is elsewhere in this Section 501 specifically dealt with or which has expressly been included in this Indenture solely for the benefit of series of Securities other than that series), and continuance of such default or breach for a period of 90 days after there has been given, by registered or certified mail, or by overnight air courier guaranteeing next day delivery, or otherwise sent in accordance with the terms of this Indenture, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in 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; or

(5) the entry by a court having jurisdiction in the premises of (A) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or (B) a decree or order adjudging the Company as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or State law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 90 consecutive days (provided that, if any Person becomes the successor to the Company pursuant to Article VIII and such Person is a corporation or partnership organized and validly existing under the law of a jurisdiction outside the United States, each reference in this Clause (5) to an applicable Federal or State law of a particular kind shall be deemed to refer to such law or any applicable comparable law of such non-U.S. jurisdiction, for as long as such Person is the successor to the Company hereunder and is so organized and existing); or

(6) the commencement by the Company of a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable Federal or State law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action (provided that, if any Person becomes the successor to the Company pursuant to Article VIII and such Person is a corporation or partnership organized and validly existing under the law of a jurisdiction outside the United States, each reference in this Clause (6) to an applicable Federal or State law of a particular kind shall be deemed to refer to such law or any applicable comparable law of such non-U.S. jurisdiction, for as long as such Person is the successor to the Company hereunder and is so organized and existing); or

(7) any other Event of Default provided with respect to Securities of that series in accordance with Section 301.

SECTION 502. Acceleration of Maturity; Rescission and Annulment. Except as may otherwise be provided pursuant to Section 301 for all or any specific Securities of any series, if an Event of Default (other than an Event of Default specified in Section 501(5) or 501(6)) with respect to Securities of that series at the time Outstanding occurs and is continuing, then in every such case the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Securities of that series may declare the principal amount of all the Securities of that series (or, in the case of any Security of that series which specifies an amount to be due and payable thereon upon acceleration of the Maturity thereof, such amount as may be specified by the terms thereof) to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), and upon any such declaration such principal amount (or specified amount), together with any accrued and unpaid interest thereon, shall become immediately due and payable. Except as may otherwise be provided pursuant to Section 301 for all or any specific Securities of any series, if an Event of Default specified in Section 501(5) or Section 501(6) with respect to Securities of that series at the time Outstanding occurs, the principal amount of all the Securities of that series (or, in the case of any Security of that series which specifies an amount to be due and payable thereon upon acceleration of the Maturity thereof, such amount as may be specified by the terms thereof), together with any accrued and unpaid interest thereon, shall automatically, and without any declaration or other action on the part of the Trustee or any Holder, become immediately due and payable.

Except as may otherwise be provided pursuant to Section 301 for all or any specific Securities of any series, at any time after such a declaration of acceleration with respect to Securities of that series 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 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 a sum sufficient to pay

(A) all overdue interest on all Securities of that series,

(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 513.

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

SECTION 503. 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 60 days, or

(2) default is made in the payment of the principal of (or premium, if any, on) any Security at the Maturity thereof,

the Company will, upon demand of the Trustee, pay to it, 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 of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

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 rights, 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 504. Trustee May File Proofs of Claim. In case of any judicial proceeding relative to the Company or any other obligor upon the Securities, their property 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. The Trustee shall be authorized 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 607.

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 505. 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 506. Application of Money Collected. Any money collected by the Trustee pursuant to this Article or distributable in respect of the Company's obligations after an Event of Default 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 this Indenture;

SECOND: To the payment of the amounts then due and unpaid for principal of and any premium and interest on the Securities in respect of which or for the benefit of which such money has 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: To the payment of the remainder, if any, to the Company, any Guarantor or to whomsoever may be lawfully entitled to receive the same as a court of competent jurisdiction may direct.

SECTION 507. 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 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 security or 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 security or 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 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.

SECTION 508. Unconditional Right of Holders to Receive Principal, Premium and Interest and to Convert. Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment of the principal of and any premium and (subject to Section 307) interest on such Security on the respective Stated Maturities expressed in such Security (or, in the case of redemption, on the Redemption Date), and, if the terms of such Security so provide, to convert such Security in accordance with its terms, and to institute suit for the enforcement of any such payment and, if applicable, any such right to convert, and such rights shall not be impaired without the consent of such Holder.

SECTION 509. 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 510. Rights and Remedies Cumulative. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or wrongfully taken Securities in the last paragraph of Section 306, no right or remedy herein conferred upon or reserved to the Trustee or to 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 511. 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 512. Control by Holders. The Holders of a majority in 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;

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; and

(3) subject to the provisions of Section 601, the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall determine that the proceeding so directed would involve the Trustee in personal liability, or would be unjustly prejudicial to the Holders of Securities of such series not joining in any such direction (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such directions are unduly prejudicial to such Holders); and

(4) prior to taking any action as directed under this Section 512, the Trustee shall be entitled to security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

SECTION 513. Waiver of Past Defaults. Except as may otherwise be provided pursuant to Section 301 for all or any specific Securities of any series, the Holders of not less than a majority in principal amount (including waivers obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) (1) of the Securities at the time Outstanding (voting as a single class) or (2) if fewer than all of the series of the Securities at the time Outstanding are to be affected by such waiver, of all series to be affected by such waiver (voting as a single class) may, by Act of such Holders, on behalf of the Holders of any series of Securities to be affected by such waiver, waive any past default hereunder with respect to the applicable series of Securities then Outstanding 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 IX cannot be modified or amended without the consent of the Holder of each Outstanding Security of such series affected.

Upon any such waiver with respect to any series, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, with respect to such series for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon. A waiver of any past default and its consequences given by or on behalf of any Holder of Securities in connection with a purchase of, or tender or exchange offer for, such Holder's Securities will not be rendered invalid by such purchase, tender or exchange.

SECTION 514. 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, suffered or omitted by it as Trustee, a court may require any party litigant in such suit to file an undertaking to pay the costs of such suit, and may assess costs, including reasonable attorneys' fees and expenses, against any such party litigant, in the manner and to the extent provided in the Trust Indenture Act; *provided* that neither this Section 514 nor the Trust Indenture Act shall be deemed to authorize any court to require such an undertaking or to make such an assessment in any suit instituted by the Company, any Guarantor or the Trustee or, if applicable, in any suit for the enforcement of the right to convert any Security in accordance with its terms.

SECTION 515. Waiver of Usury, Stay or Extension Laws. The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

## ARTICLE VI THE TRUSTEE

SECTION 601. Certain Duties and Responsibilities.

(1) Except during the continuance of an Event of Default,

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

(B) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; 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 need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein).

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

(3) 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

(A) this Subsection shall not be construed to limit the effect of the first paragraph of this Section 601;

(B) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer;

(C) 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 of any series, determined as provided in Section 512, 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 such series; and

(D) 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 security or indemnity against such risk or liability is not reasonably assured to it. The Trustee shall not be required to give any bond or surety in respect of the performance of its power or duties hereunder.

(4) 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 shall be subject to the provisions of this Section 601.

(5) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. 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 unless such Holders shall have offered to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

SECTION 602. Notice of Defaults. If a default or Event of Default occurs and is continuing hereunder with respect to Securities of any series, and if it is known to the Trustee, the Trustee shall mail or send to the Holders of Securities of such series notice of such default or Event of default within 90 days after the Trustee gains knowledge of the default or Event of Default unless such default or Event of Default shall have been cured or waived before the giving of such notice. Except in the case of a default or Event of Default in payment of principal of, premium or interest on Securities of any series, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Securities of such series. For the purpose of this Section 602 and Section 1005, the term “*default*” means, with respect to Securities of any series, any event which is, or after notice or lapse of time or both would become, an Event of Default with respect to Securities of such series.

SECTION 603. Certain Rights of Trustee. Subject to the provisions of Section 601:

(1) the Trustee may conclusively rely and shall be 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 and any resolution of the Board of Directors of the Company 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 shall be entitled to receive and may, in the absence of bad faith on its part, conclusively rely upon, and shall not be liable for any action it takes or omits to take in good faith in reliance 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 from liability 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 at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation;

(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 and shall not be responsible for the supervision of officers and employees of such agents or attorneys;

(8) the Trustee may request that the Company deliver an Officers' Certificate setting forth the names of individuals and 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;

(9) the Trustee shall not be liable for any action taken, suffered or omitted to be taken by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;

(10) the Trustee shall not be deemed to have notice of any default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee from the Company or from the Holders of at least 25% of the aggregate principal amount of the Outstanding Securities of that series, and such notice references the Securities and this Indenture;

(11) no Depositary shall be deemed an agent of the Trustee and the Trustee shall not be responsible for any act or omission by any clearinghouse or Depositary;

(12) in no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action; and

(13) the rights, privileges, protections, immunities and benefits given to the Trustee, including its rights to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder.

SECTION 604. Not Responsible for Recitals or Issuance of Securities. The recitals contained in the Indenture and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and the Trustee does not assume any responsibility for their correctness. The Trustee makes no representations as to and shall not be responsible for the validity or sufficiency of this Indenture or of the Securities. The Trustee shall not be accountable for the use or application by the Company of Securities or the proceeds thereof or any money paid to the Company or upon the Company's direction under any provision of this Indenture, and it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee. The Trustee shall not be bound to ascertain or inquire as to the performance, observance, or breach of any covenants, conditions, representations, warranties or agreements on the part of the Company. Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Securities. The Trustee shall have no obligation to pursue any action that is not in accordance with applicable law. The Trustee shall not be responsible for and makes no representation as to any act or omission of any rating agency or any rating with respect to the Securities. The Trustee shall have no obligation to independently determine or verify if any event has occurred related to, or notify the Holders of any event dependent upon, the rating of the Securities, or if the rating on the Securities has been changed, suspended or withdrawn by any rating agency.



SECTION 605. 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 608 and 613, may otherwise deal with the Company with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

SECTION 606. Money Held in Trust. Money held by the Trustee in trust hereunder need not be segregated from other funds and need not be held in an interest-bearing account, in each case, except to the extent required by law or by any other provision of this Indenture. The Trustee (acting in any capacity hereunder) shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company.

SECTION 607. Compensation and Reimbursement.

(1) The Company shall pay to the Trustee (in its capacity as Trustee, and, to the extent it has been appointed as such, as Paying Agent and Security Registrar) from time to time reasonable compensation for its acceptance of this Indenture and services hereunder in accordance with a written schedule provided by the Trustee to the Company. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon request for all reasonable and customary disbursements, advances and reasonable out-of-pocket expenses incurred or made by it in addition to the compensation for its services, except those resulting from its own negligent action, negligent failure to act or willful misconduct. Such expenses shall include the reasonable and customary compensation, disbursements and expenses of the Trustee's agents and counsel.

(2) The Company shall indemnify and hold harmless the Trustee in its capacity against any and all losses, liabilities, damage, claim, fee, cost, or reasonable out-of-pocket expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this Section 607) and defending itself against any claim (whether asserted by either of the Company or any Holder or any other person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its negligence, bad faith or willful misconduct as finally adjudicated by a court of competent jurisdiction. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may elect to have separate counsel defend the claim, but the Company shall be obligated to pay the reasonable fees and expenses of such separate counsel only if the Company fails to assume the Trustee's defense or there is a conflict of interest between the Company, on the one hand, and the Trustee, on the other hand, with respect to the claim, as reasonably determined by the Trustee. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. The Company need not reimburse the Trustee for any expense or indemnity against liability or loss of the Trustee to the extent such expense, liability or loss is attributable to the negligence, bad faith or willful misconduct of the Trustee as finally adjudicated by a court of competent jurisdiction. The provisions of this Section 607(2) shall survive the satisfaction and discharge of this Indenture or the earlier resignation or removal of the Trustee.

(3) As security for the performance of the obligations of the Company under this Section 607 the Trustee shall have a lien prior to the Securities of any series upon all property and funds held or collected by the Trustee as such, except funds held in trust for the payment of principal of (and premium, if any) or interest on Securities of such series. Such lien shall survive satisfaction and discharge of this Indenture.

(4) Without limiting any rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 501(5) or Section 501(6), the expenses (including the reasonable charges and expenses of its counsel) and the compensation for the services are intended to constitute expenses of administration under any applicable Federal or State bankruptcy, insolvency or other similar law. To the extent that the payment of any such expenses of the Trustee, its agents and counsel, and any other amounts due the Trustee out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. 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' committee or other similar committee.

(5) The provisions of this Section 607 shall survive the termination of this Indenture.

SECTION 608. Conflicting Interests. If the Trustee has or shall acquire a conflicting interest within the meaning 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 the Trust Indenture Act, the Trustee shall not be deemed to have a conflicting interest by virtue of being a trustee under this Indenture with respect to Securities of more than one series.

SECTION 609. 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, has a combined capital and surplus of at least \$100,000,000 and has its Corporate Trust Office in the continental United States of America. If any such Person publishes 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 609 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 published. 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 609, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

SECTION 610. 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 611.

The Trustee may resign at any time (in its capacity as Trustee or other capacities including Paying Agent) 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 611 shall not have been delivered to the Trustee within 60 days after the giving of such notice of resignation, the resigning Trustee 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.

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 principal amount of the Outstanding Securities of such series, delivered to the Trustee and to the Company. If the instrument of acceptance by a successor Trustee required by Section 611 shall not have been delivered to the Trustee within 30 days after the giving of a notice of removal pursuant to this paragraph, 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 at any time:

(1) the Trustee shall fail to comply with Section 608 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 609 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(3) the Trustee shall become incapable of acting or shall be adjudged a 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 Board Resolution may remove the Trustee with respect to all Securities, or (B) subject to Section 514, 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 and the appointment of a successor Trustee or Trustees.

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 Board Resolution, 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 611. If an instrument of acceptance by a successor Trustee 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, 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 be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in accordance with the applicable requirements of Section 611, become the successor Trustee with respect to the Securities of such series and to that extent supersede the successor Trustee appointed by the Company. 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 611, 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 106. 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 611.** Acceptance of Appointment by Successor. In case of the appointment hereunder of a successor Trustee with respect to all Securities, 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 its charges, 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 (1) 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, (2) 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 (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, 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.

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 612. 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 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 then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

SECTION 613. 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).

SECTION 614. Appointment of Authenticating Agent. The Trustee may appoint an Authenticating Agent or Agents with respect to any series of Securities which shall be authorized to act on behalf of the Trustee to authenticate the Securities of such Series issued upon original issue and upon exchange, registration of transfer, partial conversion or partial redemption or pursuant to Section 306, and Securities of such series 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 of such series 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 so appointed with respect to such series and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent so appointed with respect to such series. 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 or State authority. If such Authenticating Agent publishes 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 614, 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 published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 614, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section 614.

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 614, without the execution or filing of any paper or any further act on the part of the Trustee, the Company, the Authenticating Agent or such successor corporation.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee 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 614, the Trustee may appoint a successor Authenticating Agent with respect to any series of Securities which shall be acceptable to the Company and shall give notice of such appointment to all Holders of Securities of such series in the manner provided in Section 106. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all 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 614.

If an appointment is made pursuant to this Section 614 with respect to Securities of any series, the Securities of such series may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternate certificate of authentication in 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 Trust Company, National Association,  
as Trustee

By: [NAME OF AUTHENTICATING AGENT],  
as Authenticating Agent

By: \_\_\_\_\_  
Authorized Signatory

ARTICLE VII  
HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

SECTION 701. Company to Furnish Trustee Names and Addresses of Holders. The Company will furnish or cause to be furnished to the Trustee

(1) semi-annually, not later than May 15 and November 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 the immediately preceding May 1 or November 1 as the case may be, 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; excluding from any such list names and addresses received by the Trustee in its capacity as Security Registrar.

SECTION 702. 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 701 and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar. The Trustee may destroy any list furnished to it as provided in Section 701 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, any Guarantors and the Trustee that none of the Company, the Guarantors or the Trustee nor any agent of any of them shall be held accountable by reason of any disclosure of information as to names and addresses of Holders made pursuant to the Trust Indenture Act.

SECTION 703. Reports by Trustee. The Trustee shall transmit to Holders such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to Section 313 of the Trust Indenture Act at the times and in the manner provided pursuant thereto.

Reports so required to be transmitted at stated intervals of not more than 12 months shall be transmitted no later than April 15 and shall be dated as of April 1 in each calendar year, commencing in the year immediately following the year in which any Securities have initially been issued under this Indenture (but if no such event has occurred within such periods no report need be transmitted).

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 and of any delisting thereof.

SECTION 704. Reports by the Company. To the extent any Securities of any series are outstanding, the Company will furnish or file with the Trustee, within 15 days after it files the same with the Commission, copies of the annual reports and the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) that the Company is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act. If the Company is not subject to the requirements of Section 13 or 15(d) of the Exchange Act, the Company will furnish to all Holders of the Securities and *bona fide* prospective purchasers of the Securities designated by the Holders of the Securities, promptly on their request, the information required to be delivered pursuant to Rule 144A(d)(4) promulgated under the Securities Act. For purposes of this covenant, the Company will be deemed to have furnished such reports and information to, or filed such reports and information with, the Trustee and the Holders of Securities and *bona fide* prospective purchasers as required by this covenant if it has filed such reports or information with the SEC via the EDGAR filing system or otherwise made such reports or information publicly available on a freely accessible page on the Company's website. Delivery of any reports, information and documents to the Trustee is for informational purposes only and receipt of such reports and documents 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 under this Indenture or the Securities (as to which the Trustee is entitled to rely exclusively on Officers' Certificates). The Trustee shall not be obligated to monitor or confirm, on a continuing basis or otherwise, the Company's compliance with the covenants under this Indenture or the Securities or with respect to any reports or other documents filed with the Commission through the EDGAR system or any website under this Indenture.

## ARTICLE VIII SUCCESSORS

### SECTION 801. Merger and Consolidation.

(1) The Company will not consolidate with or merge with or into, or convey, transfer or lease all or substantially all its assets on a consolidated basis to, any Person, unless:

(A) the resulting, surviving or transferee Person (the "Successor Company") will be a company, corporation, partnership, trust or limited liability company organized and existing under the laws of the United States of America, any State of the United States or the District of Columbia and the Successor Company (if not the Company) will expressly assume, by supplemental indenture, executed and delivered to the Trustee, all the obligations of the Company under the Securities and the Indenture; provided that if the Successor Company is not a corporation, a corporate wholly owned Subsidiary organized under the laws of the United States of America, any State thereof or the District of Columbia shall become a co-issuer of the Securities;

(B) immediately after giving effect to such transaction no Event of Default shall have occurred and be continuing; and

(C) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, sale, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with this Article VIII and that all conditions precedent herein provided for relating to such transaction have been complied with.

(2) For purposes of this Article VIII the sale, lease, conveyance, transfer or other disposition of all or substantially all of the properties and assets of one or more Subsidiaries of the Company, which properties and assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Company on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Company on a consolidated basis.

(3) The predecessor Company will be released from its obligations under the Securities and the Indenture and the Successor Company will succeed to, and be substituted for, and may exercise every right and power of, the Company under the Securities and the Indenture, but, in the case of a lease of all or substantially all its assets, the predecessor Company will not be released from the obligation to pay the principal of and interest on the Securities.

ARTICLE IX  
SUPPLEMENTAL INDENTURES

SECTION 901. Supplemental Indentures Without Consent of Holders. Except as may otherwise be provided pursuant to Section 301 for all or any specific Securities of any series, without the consent of any Holders, the Company and the Trustee, at any time and from time to time, may 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 or a Guarantor and the assumption by any such successor of the covenants of the Company herein and in the Securities; or

(2) to add to the covenants of the Company or any Guarantor for the benefit of the Holders of all or any Securities of any series (and if such covenants are to be for the benefit of less than all Securities of such series, stating that such covenants are expressly being included solely for the benefit of such Securities within such series) or to surrender any right or power herein conferred upon the Company or any Guarantor with regard to all or any Securities of any series (and if any such surrender is to be made with regard to less than all Securities of such series, stating that such surrender is expressly being made solely with regard to such Securities within such series); or

(3) to add any additional Events of Default for the benefit of the Holders of all or any Securities of any series (and if such additional Events of Default are to be for the benefit of less than all Securities of such series, stating that such additional Events of Default are expressly being included solely for the benefit of such Securities within such series); or

(4) 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

(5) to add to, change or eliminate any of the provisions of this Indenture in respect of all or any Securities of any series (and if such addition, change or elimination is to apply with respect to less than all Securities of such series, stating that it is expressly being made to apply solely with respect to such Securities within such series), 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; or

(6) to add guarantees with respect to the Securities or to evidence the release of any Guarantor from its Guarantee as provided herein or as provided in the Securities for which such Guarantor has provided such Guarantee; or

(7) to secure the Securities; or

(8) to establish the form or terms of all or any Securities of any series as permitted by Sections 201 and 301; 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 611; or

(10) to add to or change any of the provisions of this Indenture with respect to any Securities that by their terms may be converted into securities or other property other than Securities of the same series and of like tenor, in order to permit or facilitate the issuance, payment or conversion of such Securities; or

(11) to comply with any rules of any applicable Depositary; or

(12) to conform the text of this Indenture or any Securities to any provision of the "Description of the Notes" (or comparable) section in any offering memorandum, prospectus or prospectus supplement of the Company prepared from time to time after the date of this Indenture with respect to the offer and sale of Securities of any series, to the extent that such provision was intended to be a verbatim recitation of a provision of this Indenture or the Securities; or

(13) to cure any ambiguity, omission, mistake, defect or inconsistency, 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; or

(14) to make any change that would provide any additional rights or benefits to the Holders of Securities of any series or that does not adversely affect the legal rights under this Indenture of any such Holder taken as a whole in any material respect.

The Trustee is hereby authorized to join with the Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage or pledge of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

**SECTION 902. Supplemental Indentures With Consent of Holders.** Except as may otherwise be provided pursuant to Section 301 for all or any specific Securities of any series, with the consent of the Holders of not less than a majority in principal amount (including consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) (1) of the Securities at the time Outstanding (voting as a single class) or (2) if fewer than all of the series of the Securities at the time Outstanding are affected by such supplemental indenture, of all series affected by such supplemental indenture (voting as a single class), by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of Securities or of the Holders of Securities of such series, as applicable, under this Indenture; *provided, however*, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security affected thereby (including consents obtained in connection with a purchase of, or tender offer or exchange offer for, Securities),

(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 502, or permit the Company to redeem any Security if, absent such supplemental indenture, the Company would not be permitted to do so, 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 receive or to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or

(2) if any Security provides that the Holder may require the Company to repurchase or convert such Security, impair such Holder's right to require repurchase or conversion of such Security on the terms provided therein, or



(3) reduce the percentage in principal amount of the Outstanding Securities of any one or more series (considered separately or together as one class, as applicable, and whether comprising the same or different series or less than all the Securities of a series), the consent of whose Holders is required for any such supplemental indenture, 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,

(4) release any Guarantor from any of its obligations under its Guarantee, except in accordance with the terms of this Indenture or the Securities for which such Guarantor has provided a Guarantee; or

(5) modify any of the provisions of this Section 902, Section 513 or Section 1006.

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

It shall not be necessary for any Act of Holders under this Section 902 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof. A consent to any indenture supplemental hereto by or on behalf of any Holder of Securities given in connection with a purchase of, or tender or exchange offer for, such Holder's Securities will not be rendered invalid by such purchase, tender or exchange.

SECTION 903. 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 601) 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 or immunities under this Indenture or otherwise.

SECTION 904. 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 905. Conformity with Trust Indenture Act. Every supplemental indenture executed pursuant to this Article shall conform to the requirements of the Trust Indenture Act.

SECTION 906. 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.

## ARTICLE X COVENANTS

SECTION 1001. Payment of Principal, Premium and Interest. The Company covenants and agrees for the benefit 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.

SECTION 1002. Maintenance of Office or Agency. The Company will maintain in each Place of Payment for any series of Securities 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, where Securities may be surrendered for conversion 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. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands. The Company shall cause each of the Security Registrar and the Paying Agent to maintain an office or agency in the Borough of Manhattan, The City of New York.

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

With respect to any Global Security, and except as otherwise may be specified for such Global Security as contemplated by Section 301, the Corporate Trust Office of the Trustee shall be the Place of Payment where such Global Security may be presented or surrendered for payment or for registration of transfer or exchange, or where successor Securities may be delivered in exchange therefor; *provided, however*, that any such payment, presentation, surrender or delivery effected pursuant to the Applicable Procedures of the Depository for such Global Security shall be deemed to have been effected at the Place of Payment for such Global Security in accordance with the provisions of this Indenture.

**SECTION 1003. 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, on or prior to 11:00 A.M., New York City time, on each due date of the principal of or any premium or interest on any Securities of that series, deposit (or, if the Company has deposited any trust funds with a trustee pursuant to Section 1304(1), cause such trustee to 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 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 1003, that such Paying Agent will (1) comply with the provisions of the Trust Indenture Act applicable to it as a Paying Agent and (2) 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 on 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*, that the Trustee or such Paying Agent, before being required to make any such repayment, shall, at the expense of the Company, cause to be published once, in *The New York Times* or *The Wall Street Journal* (national edition), 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 1004. Organizational Existence. Subject to Article VIII, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its organizational existence, rights (charter and statutory), licenses and franchises; *provided, however*, that the Company will not be required to preserve any such right, license or franchise if it shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company.

SECTION 1005. Statement by Officers as to Default. 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 complying with Section 314(a)(4) of the Trust Indenture Act, stating that a review of the activities of the Company during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and compliance with conditions and covenants, with respect to the Securities of each series Outstanding and further stating, as to each such Officer signing such certificate, that to the best of such Officer's actual knowledge, the Company has kept, observed, performed and fulfilled its obligations, conditions and covenants under this Indenture with respect to Securities of such series and is not in default in the performance and observance of any of the material terms, provisions and conditions of this Indenture with respect to Securities of such series, in each case, so as not to result in any default or Event of Default with respect to Securities of such series (or, if a default or Event of Default with respect to Securities of such series shall have occurred and be continuing, describing all such defaults or Events of Default of which such Officer may have knowledge and what action the Company is taking or propose to take with respect thereto).

SECTION 1006. Waiver of Certain Covenants. Except as otherwise provided pursuant to Section 301 for all or any specific Securities of any series, the Company may, with respect to all or any Securities of any series, omit in any particular instance to comply with any term, provision or condition set forth in Section 1004 or in any covenant provided pursuant to Section 301(18), 901(2), 901(6) or 901(8) for the benefit of the Holders of such series or in Article VIII if, before the time for such compliance, the Holders of not less than a majority in principal amount (including waivers obtained in connection with a purchase of, or tender offer or exchange offer for, Securities) (1) of all the Securities at the time Outstanding (voting as a single class) or (2) if fewer than all of the series of the Securities at the time Outstanding are affected by such omission, of the series affected by such waiver (voting as a single class) shall, by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee in respect of any such term, provision or condition shall remain in full force and effect. A waiver of compliance given by or on behalf of any Holder of Securities in connection with a purchase of, or tender or exchange offer for, such Holder's Securities will not be rendered invalid by such purchase, tender or exchange.

#### ARTICLE XI REDEMPTION OF SECURITIES

SECTION 1101. 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 301 for such Securities) in accordance with this Article.

SECTION 1102. Election to Redeem; Notice to Trustee. The election of the Company to redeem any Securities shall be established in or pursuant to a Board Resolution or in another manner specified as contemplated by Section 301 for such Securities. In case of any redemption at the election of the Company of less than all the Securities of any series (including any such redemption affecting only a single Security), the Company shall, at least 5 Business Days prior to delivery of notice of redemption to Holders of Securities fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee), deliver a Company Request to Trustee, together with the notice to be given, and 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 (1) prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, or (2) pursuant to an election of the Company that is subject to a condition specified in the terms of the Securities of the series to be redeemed, the Company shall furnish the Trustee with an Officers' Certificate and Opinion of Counsel evidencing compliance with such restriction or condition. Redemptions may be conditioned upon the occurrence of conditions precedent with respect to the redemption.

SECTION 1103. 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 the case of Global Securities by Applicable Procedures or otherwise by pro rata method 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 required by Applicable Procedures for Global Securities, or otherwise for Definitive Securities, 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.

If any Security selected for partial redemption is converted in part before termination of the conversion right (if applicable to the relevant series of Securities) with respect to the portion of the Security so selected, the converted portion of such Security shall be deemed (so far as it may be) to be the portion selected for redemption. Securities which have been converted during a selection of Securities to be redeemed shall be treated by the Trustee as Outstanding for the purpose of such selection.

The Trustee shall promptly notify the Company and each Security Registrar 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.

SECTION 1104. Notice of Redemption. Notice of redemption shall be given in the manner provided in Section 106 not less than 10 days nor more than 60 days prior to the Redemption Date (or within such period as otherwise specified as contemplated by Section 301 for the relevant Securities), to each Holder of Securities to be redeemed, at its address appearing in the Security Register.

All notices of redemption shall identify the Securities to be redeemed (including CUSIP numbers, if any, and that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such noticed or printed on the Securities), the paragraph of the Securities and the Section of the Indenture pursuant to which the Securities called for redemption are being redeemed, and shall state:

(1) the Redemption Date,

(2) the Redemption Price,

(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 the 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,

(6) the conditions precedent for the redemption, if any,

(7) for any Securities that by their terms may be converted, the terms of conversion, the date on which the right to convert the Security to be redeemed will terminate and the place or places where such Securities may be surrendered for conversion, and

(8) that the redemption is for a sinking fund, if such is the case.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, by Company Request, by the Trustee in the name and at the expense of the Company.

SECTION 1105. Deposit of Redemption Price. Prior to 11:00 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 1003) 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 any Securities called for redemption on that date which have been converted prior to the date of such deposit.

If any Security called for redemption is converted, any money deposited with the Trustee or with any Paying Agent or so segregated and held in trust for the redemption of such Security shall (subject to any right of the Holder of such Security or any Predecessor Security to receive interest as provided in the last paragraph of Section 307 or in the terms of such Security) be paid to the Company upon Company Request or, if then held by the Company, shall be discharged from such trust.

SECTION 1106. Securities Payable on Redemption Date. Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest or unless the conditions precedent for the redemption have not been satisfied) such Securities shall cease to bear interest. 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 301, 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 307.

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 1107. 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 his attorney duly authorized in writing), and the Company 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.

SECTION 1108. No Limit on Repurchases. Nothing in this Indenture or the Securities shall prohibit or limit the right of the Company or any Affiliate of the Company to repurchase Securities from time to time at any price in open market purchases or private transactions at negotiated prices, by tender offer or otherwise, in each case without any notice to or consent by Holders. Any Securities purchased by the Company or any Affiliate of the Company may, to the extent permitted by law and at the discretion of the Company, be held, resold or delivered to the Trustee for cancellation. Any such Securities delivered to the Trustee for cancellation may not be resold and shall be disposed of as directed by Company Order.

ARTICLE XII  
SINKING FUNDS

SECTION 1201. Applicability of Article. The provisions of this Article shall be applicable to any sinking fund for the retirement of Securities of any series except as otherwise specified as contemplated by Section 301 for such Securities.

The minimum amount of any sinking fund payment provided for by the terms of any Securities 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 such Securities is herein referred to as an “**optional sinking fund payment**.” If provided for by the terms of any Securities, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 1202. Each sinking fund payment shall be applied to the redemption of Securities as provided for by the terms of such Securities.

SECTION 1202. Satisfaction of Sinking Fund Payments with Securities. The Company (1) may deliver Outstanding Securities of a series (other than any previously called for redemption) and (2) may apply as a credit Securities of a series which have been converted in accordance with their terms or 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 sinking fund payment with respect to any Securities of such series required to be made pursuant to the terms of such Securities as and to the extent provided for by the terms of such Securities; *provided* that the Securities to be so credited have not been previously so credited. The Securities to be so credited shall be received and credited for such purpose by the Trustee at the Redemption Price, as specified in the Securities so to be redeemed (or at such other prices as may be specified for such Securities as contemplated in Section 301), for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

SECTION 1203. Redemption of Securities for Sinking Fund. Not less than 45 days (or such shorter period as shall be satisfactory to the Trustee) prior to each sinking fund payment date for any Securities, the Company will deliver to the Trustee an Officers’ Certificate specifying the amount of the next ensuing sinking fund payment for such Securities pursuant to the terms of such Securities, 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 pursuant to Section 1202 and will also deliver to the Trustee any Securities to be so delivered. Not less than 30 days prior to each such sinking fund payment date, the Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 1103 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 1104. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 1106 and 1107.

ARTICLE XIII  
DEFEASANCE AND COVENANT DEFEASANCE

SECTION 1301. Company’s Option to Effect Defeasance or Covenant Defeasance. Unless otherwise designated pursuant to Section 301(15), the Securities of any series of Securities shall be subject to defeasance or covenant defeasance pursuant to such Section 1302 or 1303, in accordance with any applicable requirements provided pursuant to Section 301 and upon compliance with the conditions set forth below in this Article. The Company may elect, at its option, at any time, to have Section 1302 or Section 1303 applied to any Securities or any series of Securities so subject to defeasance or covenant defeasance. Any such election shall be evidenced by a Board Resolution or in another manner specified as contemplated by Section 301 for such Securities.

SECTION 1302. Defeasance and Discharge. Upon the Company’s exercise of its option (if any) to have this Section 1302 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 as provided in this Section 1302 on and after the date the conditions set forth in Section 1304 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 to have satisfied all their other respective obligations under such Securities and this Indenture insofar as such Securities 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: (1) the rights of Holders of such Securities to receive, solely from the trust fund described in Section 1304(1) and as more fully set forth in such Section, payments in respect of the principal of and any premium and interest on such Securities when payments are due, or, if applicable, to convert such Securities in accordance with their terms, (2) the obligations of the Company and the Guarantors with respect to such Securities under Sections 304, 305, 306, 1002 and 1003, and, if applicable, their obligations with respect to the conversion of such Securities, (3) the rights, powers, trusts, duties and immunities of the Trustee hereunder and (4) this Article. Subject to compliance with this Article, the Company may exercise their option (if any) to have this Section 1302 applied to any Securities notwithstanding the prior exercise of its option (if any) to have Section 1303 applied to such Securities.

SECTION 1303. Covenant Defeasance. Upon the Company's exercise of its option (if any) to have this Section 1303 applied to any Securities or any series of Securities, as the case may be, (1) the Company and the Guarantors shall be released from its obligations under Section 1004 and any covenants provided pursuant to Section 301(18), 901(2), 901(6) or 901(8) for the benefit of the Holders of such Securities and (2) the occurrence of any event specified in Sections 501(4) (with respect to Section 1004 and any such covenants provided pursuant to Section 301(18), 901(2), 901(6) or 901(7)) and 501(7) 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 1303 on and after the date the conditions set forth in Section 1304 are satisfied (hereinafter called "**Covenant Defeasance**"). For this purpose, such Covenant Defeasance means that, with respect to such Securities, the Company and the Guarantors 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 501(4)), 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 thereof shall be unaffected thereby.

SECTION 1304. Conditions to Defeasance or Covenant Defeasance. The following shall be the conditions to the application of Section 1302 or Section 1303, to any Securities or any series of Securities, as the case may be:

(1) The Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee which satisfies the requirements contemplated by Section 609 and agrees to comply with the provisions of this Article applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefits of the Holders of such Securities, (A) money 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, not later than one day before the due date of any payment, money in an amount, or (C) such other obligations or arrangements as may be specified as contemplated by Section 301 with respect to such Securities, or (D) a combination thereof, in each case sufficient (except in the case of clause (A), in the opinion of a nationally recognized firm of independent public accountants or a nationally recognized investment banking firm expressed in a written certification thereof delivered to the Trustee) to pay and discharge, and which shall be applied by the Trustee (or any such other qualifying trustee) to pay and discharge, the principal of and any premium and interest on such Securities on the respective Stated Maturities, 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) any 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 1302 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, subject to customary exceptions and exclusions, 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 Indenture, 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 have been the case if such deposit, Defeasance and discharge were not to occur.

(3) In the event of an election to have Section 1303 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, subject to customary exceptions and exclusions, 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 have been the case if such deposit and Covenant Defeasance were not to occur.

(4) The Company shall have delivered to the Trustee an Officers' Certificate to the effect that neither such Securities nor any other Securities of the same series, if then listed on any securities exchange, will be delisted as a result of such deposit.

(5) No event which is, or after notice or lapse of time or both would become, an Event of Default with respect to such Securities or any other Securities (other than such an event or Event of Default with respect to such Securities resulting solely from the incurrence of indebtedness or other borrowing of funds, or the grant of liens securing such indebtedness or other borrowing, all or a portion of which are to be applied to such deposit) shall have occurred and be continuing at the time of such deposit.

(6) Such Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, any other agreement or instrument (other than this Indenture insofar as such Securities are concerned) to which the Company is a party or by which it is bound.

(7) The Company shall have delivered to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of such Securities over the other creditors of the Company or with the intent of defeating, hindering, delaying or defrauding creditors of the Company.

(8) 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 1305. Deposited Money and U.S. Government Obligations to Be Held in Trust; Miscellaneous Provisions. Subject to the provisions of the last paragraph of Section 1303, all money, U.S. Government Obligations and other obligations (including the proceeds thereof) deposited with the Trustee or other qualifying trustee (solely for purposes of this Section 1305 and Section 1306, the Trustee and any such other trustee are referred to collectively as the "**Trustee**") pursuant to Section 1304 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 or any Subsidiary or Affiliate of the Company) 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 and U.S. Government Obligations 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 1304 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 money, U.S. Government Obligations or other obligations held by it as provided in Section 1304 with respect to any Securities which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, 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 1306. Reinstatement. If the Trustee or the Paying Agent is unable to apply any money in accordance with this Article with respect to any Securities by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the respective obligations under this Indenture and such Securities from which the Company and the Guarantors have been discharged or released pursuant to Section 1302 or 1303 shall be revived and reinstated as though no deposit had occurred pursuant to this Article with respect to such Securities, until such time as the Trustee or Paying Agent is permitted to apply all money held in trust pursuant to Section 1305 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 money so held in trust.

#### ARTICLE XIV GUARANTEES

SECTION 1401. Guarantees. Securities of any series that are to be guaranteed by the Guarantees of any Guarantors shall be guaranteed by such Guarantors as shall be established pursuant to Section 301 with respect to the Securities of such series. The Persons who shall initially be the Guarantors of the Securities of any such series may, but need not, include any or all of the Initial Guarantors and may include any and all such other Persons as the Company may determine; *provided that*, prior to the authentication and delivery upon original issuance of Securities that are to be guaranteed by a Person that is not an Initial Guarantor, the Company, the Trustee and such Person shall enter into a supplemental indenture pursuant to Section 901 hereof whereby such Person shall become a Guarantor under this Indenture.

Securities of any series that are to be guaranteed by the Guarantees of any Guarantors shall be guaranteed in accordance with the terms of such Guarantees as established pursuant to Section 301 with respect to such Securities and such Guarantees thereof and (except as otherwise specified as contemplated by Section 301 for such Securities and such Guarantees thereof) in accordance with this Article.

Each Guarantor of any Security hereby fully and unconditionally, jointly and severally, guarantees to each Holder of such Security, and to the Trustee on behalf of such Holder, the due and punctual payment of the principal of, and premium, if any, and interest, if any, on such Security when and as the same shall become due and payable, whether at the Stated Maturity, by declaration of acceleration, call for redemption or otherwise, in accordance with the terms of such Security and of this Indenture. In case of the failure of the Company punctually to make any such payment, such Guarantor hereby agrees to cause such payment to be made punctually when and as the same shall become due and payable, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise, and as if such payment were made by the Company.

The Guarantor of any Security hereby agrees that its obligations hereunder shall be absolute and unconditional irrespective of, and shall be unaffected by, any invalidity, irregularity or unenforceability of such Security or this Indenture, any failure to enforce the provisions of such Security or this Indenture, or any waiver, modification or indulgence granted to the Company with respect thereto, by the Holder of such Security or the Trustee or any other circumstance which may otherwise constitute a legal or equitable discharge or defense of a surety or guarantor; *provided, however*, that, notwithstanding the foregoing, no such waiver, modification or indulgence shall, without the consent of any Guarantor, increase the principal amount of such Security, or increase the interest rate thereon, change any redemption provisions thereof (including any change to increase any premium payable upon redemption thereof) or change the Stated Maturity of any payment thereon, or increase the principal amount of any Original Issue Discount Security that would be due and payable upon a declaration of acceleration or the maturity thereof pursuant to Section 502 of this Indenture.

The Guarantor of any Security hereby waives the benefits of diligence, presentment, demand for payment, any requirement that the Trustee or any of the Holders exhaust any right or take any action against the Company or any other Person, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest or notice with respect to any Security or the indebtedness evidenced thereby and all demands whatsoever, and covenants that its obligations hereunder will not be discharged in respect of such Security except by complete performance of the obligations of such Guarantor contained in such Security and in this Indenture. Any Guarantee of any Guarantor hereunder shall constitute a guaranty of payment and not of collection. The Guarantor of any Security hereby agrees that, in the event of a default in payment of principal, or premium, if any, or interest, if any, on such Security, whether at its Stated Maturity, by declaration of acceleration, call for redemption or otherwise, legal proceedings may be instituted by the Trustee on behalf of, or by, the Holder of such Security, subject to the terms and conditions set forth in this Indenture, directly against such Guarantor to enforce the obligation of such Guarantor hereunder without first proceeding against the Company.

The obligations of the Guarantor of any Security hereunder with respect to such Security shall be continuing and irrevocable until the date upon which the entire principal of, premium, if any, and interest, if any, on such Security has been, or has been deemed pursuant to the provisions of Article IV of this Indenture to have been, paid in full or otherwise discharged.

The Guarantor of any Security shall be subrogated to all rights of the Holders of such Security against the Company in respect of any amounts paid by the Guarantor on account of such Security pursuant to the provisions of this Indenture; *provided, however*, that such Guarantor shall not be entitled to enforce or to receive any payments arising out of, or based upon, such right of subrogation until the principal, and premium, if any, and interest, if any, on all Securities issued hereunder that are due and payable shall have been paid in full.

The Guarantee by any Guarantor of any Security shall remain in full force and effect and continue notwithstanding any petition filed by or against the Company for liquidation or reorganization, the Company becoming insolvent or making an assignment for the benefit of creditors or a receiver or trustee being appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or reinstated, as the case may be, if at any time payment of such Security, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any Holder of such Security, whether as a "voidable preference," "fraudulent transfer," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned on a Security, such Security shall, to the fullest extent permitted by law, be reinstated and deemed paid only by such amount paid and not so rescinded, reduced, restored or returned.

No Guarantor shall consolidate with or merge into any other Person or sell, convey or transfer all or substantially all its properties and assets to any Person, and no Guarantor shall permit any Person to consolidate with or merge into such Guarantor, in each case in a transaction in which the successor Person formed by such consolidation or merger or to which such sale, conveyance or transfer is made is an Affiliate of the Company, and no Guarantor shall lease all or substantially all its properties and assets to any Person (whether or not such an Affiliate), unless, in any such case:

(1) in case such Guarantor shall consolidate with or merge into another Person or sell, convey, transfer or lease all or substantially all its properties and assets to any Person, the Person formed by such consolidation or into which such Guarantor is merged or the Person which acquires by sale, conveyance or transfer, or which leases, all or substantially all the properties and assets of such Guarantor shall be a corporation, limited liability company, partnership or trust, shall be organized and validly existing under the laws of the United States, any state thereof or the District of Columbia and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, the performance or observance of every covenant of this Indenture and any Guarantees on the part of such Guarantor to be performed or observed; and

(2) immediately after giving effect to such transaction no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing.

Upon any consolidation of any Guarantor with, or merger of such Guarantor into, any other Person or any sale, conveyance, transfer or lease of all or substantially all the properties and assets of such Guarantor in accordance with this paragraph, the successor Person formed by such consolidation or into which such Guarantor is merged or to which such sale, conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, such Guarantor under this Indenture with the same effect as if such successor Person had been named as such Guarantor herein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Indenture and any Guarantees of such Guarantor.

Upon (i) a consolidation or merger of any Guarantor with or into, or a sale, conveyance or transfer of all or substantially all the properties and assets of any Guarantor to, any other Person or any consolidation or merger of any Person with or into any Guarantor, in each case in a transaction in which the successor Person formed by such consolidation or merger or to which such sale, conveyance or transfer is made is not an Affiliate of the Company or (ii) any sale, conveyance or transfer (including by way of merger) by the Company or any Subsidiary thereof of all or substantially all the capital stock of any Guarantor to any Person that is not an Affiliate of the Company, such Guarantor shall be deemed to be automatically and unconditionally released and discharged from all its obligations under its Guarantees and under this Article XIV without any further action required on the part of the Trustee or any Holder. The Trustee shall deliver an appropriate instrument evidencing such release and discharge upon receipt of the Company Request accompanied by an Officers' Certificate certifying as to the compliance with this paragraph of Section 1401. The Company may, at its option, at any time and from time to time, cause any Guarantor to be automatically and unconditionally released and discharged from all its obligations under its Guarantees with respect to Securities of all series guaranteed by Guarantees of such Guarantor and under this Article XIV upon (i) any conditions for such release provided with respect to Securities of such series in accordance with Section 301 having been satisfied and (ii) delivery by the Company to the Trustee of the Company Order relating to such release and discharge. The Trustee shall deliver an appropriate instrument evidencing such release and discharge upon receipt of the Company Request accompanied by an Officers' Certificate certifying as to the compliance with this paragraph of Section 1401.

Anything in this Indenture, the Securities or any Guarantee to the contrary notwithstanding, the obligations of any Guarantor under its Guarantees and this Indenture shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor, result in the obligations of such Guarantor under its Guarantees and this Indenture not constituting a fraudulent conveyance or fraudulent transfer under any Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal, state or other law affecting the rights of creditors generally.

No Guarantee by any Guarantor of any Security, whether or not such Guarantee is or is to be endorsed thereon, shall be valid and obligatory for any purpose with respect to such Security until the certificate of authentication on such Security shall have been signed by or on behalf of the Trustee.

**CVR ENERGY, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**COFFEYVILLE RESOURCES CRUDE TRANSPORTATION, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**COFFEYVILLE RESOURCES PIPELINE, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**COFFEYVILLE RESOURCES REFINING & MARKETING, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**COFFEYVILLE RESOURCES TERMINAL, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR ENERGY HOLDINGS, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**CVR REFINING, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR REFINING, LP**

By: CVR Refining GP, LLC, its general partner

By: \_\_\_\_\_  
Name:  
Title:

**CVR REFINING GP, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR RENEWABLES, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR SERVICES, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**WYNNEWOOD ENERGY COMPANY, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**WYNNEWOOD REFINING COMPANY, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**COMMON ASSETS HOLDCO, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR COMMON ASSETS CVL, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR COMMON ASSETS WYN, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**COMMON SERVICES HOLDCO, LLC**

By: \_\_\_\_\_  
Name:  
Title:

Signature Page to Indenture

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**CVR COMMON SERVICES, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**RENEWABLE ASSETS HOLDCO, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR RENEWABLES CVL, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR RENEWABLES WYN, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR SUPPLY & TRADING, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR REFINING CVL, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR REFINING WYN, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**CVR CHC, LP**

By: CHC GP, LLC, its general partner

By: \_\_\_\_\_  
Name:  
Title:

**CVR FHC, LP**  
By: FHC GP, LLC, its general partner

By: \_\_\_\_\_  
Name:  
Title:

**CVR RHC, LP**  
By: RHC GP, LLC, its general partner

By: \_\_\_\_\_  
Name:  
Title:

Signature Page to Indenture

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DUBAI  
HOUSTON  
LONDONNEW YORK  
PALO ALTO  
RIYADH  
SAN FRANCISCO  
WASHINGTON

August 5, 2022

CVR Energy, Inc.  
2277 Plaza Drive, Suite 500  
Sugar Land, Texas 77479

Ladies and Gentlemen:

We have acted as counsel to CVR Energy, Inc., a Delaware corporation (the "Company"), and the subsidiaries listed on Schedule I hereto (collectively, the "Subsidiary Guarantors"), with respect to the preparation of the Registration Statement on Form S-3 (the "Registration Statement") to be filed by the Company on or about the date hereof with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Act"). The Registration Statement relates to the proposed offer and sale, from time to time, pursuant to Rule 415 under the Act, of an indeterminate amount of (i) shares of common stock, par value \$0.01 per share, of the Company (the "Common Stock"); (ii) shares of preferred stock, par value \$0.01 per share, of the Company (the "Preferred Stock"); (iii) rights to purchase any combination of Common Stock, Preferred Stock or other securities of the Company (the "Rights"); (iv) debt securities of the Company (the "Debt Securities"); (v) guarantees of the Debt Securities (the "Guarantees") by the Subsidiary Guarantors; (vi) warrants to purchase any combination of Common Stock, Preferred Stock, Debt Securities, Depositary Shares (as defined below) and Purchase Contracts (as defined below) (the "Warrants"); (vii) depository shares of the Company representing Preferred Stock (the "Depositary Shares"); (viii) purchase contracts of the Company with regard to Common Stock, Preferred Stock or other securities of the Company (the "Purchase Contracts"); (ix) purchase units of the Company (the "Purchase Units"), each consisting of a Purchase Contract and other securities or obligations issued by the Company or third parties, or any other securities described in the applicable prospectus supplement or any combination of the foregoing; and (x) units consisting of any combination of the Common Stock, Preferred Stock, Rights, Debt Securities, Warrants, Depositary Shares or Purchase Contracts (the "Units"). The Common Stock, Preferred Stock, Rights, Debt Securities, Guarantees, Warrants, Depositary Shares, Purchase Contracts, Purchase Units and Units are collectively referred to herein as the "Securities." At your request, this opinion is being furnished to you for filing as Exhibit 5.1 to the Registration Statement.

Each series of Debt Securities and any related Guarantees will be issued pursuant to an indenture, substantially in the form filed as Exhibit 4.4 to the Registration Statement, to be entered into by the Company, as issuer, the Subsidiary Guarantors party thereto and U.S. Bank Trust Company, National Association, as trustee (as may be amended or supplemented from time to time, the "Indenture"). The Indenture will be supplemented, in connection with the issuance of each such series of Debt Securities and any related Guarantees, by a supplemental indenture, officers' certificate or other writing thereunder (each, a "Supplemental Indenture Document"), by and among the Company, the Subsidiary Guarantors party thereto and the trustee thereunder, establishing the form and terms of such series of Debt Securities and any related Guarantees.

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In our capacity as your counsel in the connection referred to above, we have examined originals, or copies certified or otherwise identified, of (i) the Company's Amended and Restated Certificate of Incorporation and Second Amended and Restated Bylaws, each as amended to date (together, the "Charter Documents"), (ii) the certificate of incorporation, formation or limited partnership, as applicable, and the bylaws, limited liability company agreement or limited partnership agreement, as applicable, of each Subsidiary Guarantor, each as amended to date, (iii) the Indenture, (iv) corporate, limited liability company or limited partnership records of the Company and each Subsidiary Guarantor, (v) the Registration Statement, including the prospectus contained therein relating to the Securities, (vi) certificates of public officials and of officers and other representatives of the Company and the Subsidiary Guarantors and (vii) statutes and such other records, certificates, documents and instruments as we have deemed necessary or advisable as a basis for giving the opinion set forth below.

In connection with this opinion, we have relied, to the extent we deemed proper, without independent investigation, upon certificates, statements and other representations of officers and other representatives of the Company and of governmental and public officials with respect to the accuracy and completeness of the material factual matters contained therein or covered thereby.

In connection with this opinion, we have assumed, without independent investigation, that the signatures on all documents examined by us are genuine, that all documents submitted to us as originals are accurate and complete, that all documents submitted to us as certified or photostatic copies are true and correct copies of the originals thereof, that such original copies are accurate and complete and that all information submitted to us was accurate and complete.

In connection with this opinion, we also have assumed that:

- (i) the Registration Statement and any amendments thereto (including post-effective amendments) will have become effective under the Act;
  - (ii) a prospectus supplement will have been prepared and filed with the Commission describing the Securities offered thereby;
  - (iii) all Securities will be offered, issued and sold in compliance with applicable federal and state securities laws and in the manner stated in the Registration Statement (including post-effective amendments thereto) and the applicable prospectus supplement;
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(iv) the Board of Directors of the Company or applicable governing body of the Subsidiary Guarantors, or a duly constituted and acting committee thereof (such Board of Directors, governing body or committee being hereafter referred to as the “Board”), and the stockholders of the Company will have taken all necessary corporate action to authorize the creation and issuance of the Securities and any other Securities issuable on the conversion, exchange, redemption or exercise thereof, and to authorize the terms of the offering and the issuance and sale of such Securities and related matters;

(v) a definitive purchase agreement, underwriting agreement, rights agreement, warrant agreement, unit agreement or similar agreement with respect to any Securities offered will have been duly authorized and validly executed and delivered by the Company and the other parties thereto (each, a “Purchase Agreement”);

(vi) any securities issuable upon conversion, exchange, redemption or exercise of any Securities being offered will have been duly authorized, created and, if appropriate, reserved for issuance upon such conversion, exchange, redemption or exercise;

(vii) all Securities, and any certificates in respect thereof, will be delivered either (a) in accordance with the provisions of the applicable Purchase Agreement approved by the Board upon payment of the consideration therefor provided for therein; or (b) upon conversion, exchange, redemption or exercise of any other Security, in accordance with the terms of such Security or the instrument governing such Security providing for such conversion, exchange, redemption or exercise as approved by the Board, for the consideration approved by the Board;

(viii) in the case of shares of Common Stock or Preferred Stock, (a) certificates representing such shares will have been duly executed and will have been duly countersigned by a transfer agent and duly registered by a registrar of such stock, or, if uncertificated, valid book-entry notations will have been made in the share register of the Company in accordance with the provisions of the Charter Documents; (b) there will be sufficient shares of Common Stock or Preferred Stock, as applicable, authorized under the Company’s Charter Documents and not otherwise issued or reserved for issuance; and (c) the purchase price therefor payable to the Company, or if such shares are issuable on the conversion, exchange, redemption or exercise of another Security, the consideration payable to the Company for such conversion, exchange, redemption or exercise, will not be less than the par value of such shares, in the case of shares of Common Stock, or the purchase price or consideration, as the case may be, as approved by the Board of the Company with respect to such issuance, in the case of shares of Preferred Stock;

(ix) in the case of shares of Preferred Stock of any series, the Board of the Company will have taken all necessary corporate action to designate and establish the terms of such series and will have caused a certificate of designations respecting such series to be prepared and filed with the Secretary of State of the State of Delaware;

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(x) in the case of Rights, (a) the Board of the Company will have taken all necessary corporate action to authorize the terms of such Rights; (b) the applicable rights agreement will have been duly authorized by the Company and duly executed and delivered by the Company and the rights agent thereunder appointed by the Company; (c) such rights agreement will be the valid and legally binding obligation of the rights agent, enforceable against such party in accordance with its terms; (d) such Rights and such rights agreement will be governed by New York law and will not include any provision that is unenforceable; and (e) such Rights or certificates representing such Rights, if any, will have been duly executed, countersigned, registered and delivered in accordance with the provisions of such rights agreement and the applicable Purchase Agreement;

(xi) in the case of Debt Securities and related Guarantees, (a) an indenture substantially in the form of the Indenture will have been duly authorized, executed and delivered by the Company, the Subsidiary Guarantors and the trustee thereunder; (b) the Board of the Company and the Subsidiary Guarantors will have taken all necessary action to designate and establish the terms of such series of Debt Securities and related Guarantees in accordance with the terms of the Indenture, including, if applicable, the execution and delivery of a Supplemental Indenture Document by the Company, and, as applicable, the Subsidiary Guarantors and the trustee thereunder, and such Debt Securities and related Guarantees will be governed by New York law and will not include any provision that is unenforceable; (c) a Supplemental Indenture Document will have been duly executed and delivered by the Company and, as applicable, the Subsidiary Guarantors and the trustee thereunder; (d) the Indenture will be the valid and legally binding obligation of the trustee thereunder, enforceable against such party in accordance with its terms; (d) the Indenture will have become qualified under the Trust Indenture Act of 1939, as amended; and (e) forms of Debt Securities and related Guarantees complying with the terms of the Indenture will be issued and evidencing such Debt Securities and related Guarantees will have been duly executed, authenticated, issued and delivered in accordance with the provisions of such Indenture;

(xii) in the case of Warrants, (a) the Board of the Company will have taken all necessary corporate action to authorize the creation of and the terms of such Warrants and the issuance of the Securities to be issued pursuant thereto and to approve the warrant agreement relating thereto; (b) such warrant agreement will have been duly executed and delivered by the Company and the warrant agent thereunder appointed by the Company; (c) such warrant agreement will be the valid and legally binding obligation of the warrant agent, enforceable against such party in accordance with its terms; (d) such Warrants and such warrant agreement will be governed by New York law and will not include any provision that is unenforceable; and (e) such Warrants or certificates representing such Warrants will have been duly executed, countersigned, registered and delivered in accordance with the provisions of such warrant agreement and the applicable Purchase Agreement to the purchasers thereof upon payment of the agreed-upon consideration therefor;

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(xiii) in the case of Depositary Shares, (a) the Board of the Company will have taken all necessary corporate action to establish the terms of the Depositary Shares, including any action with respect to the Preferred Stock underlying such Depositary Shares; (b) the applicable deposit agreement (the “Deposit Agreement”) will have been duly authorized, executed and delivered by the Company and the depository thereunder appointed by the Company; (c) the terms of such Depositary Shares and of their issuance and sale will have been duly established in conformity with the Deposit Agreement; (d) such Depositary Shares will have been authorized, offered and sold in accordance with the Deposit Agreement; (e) such Deposit Agreement will be the valid and legally binding obligation of the depository agent thereunder, enforceable against such party in accordance with its terms; (f) the Preferred Stock underlying such Depositary Shares will have been duly issued and deposited with the depository; (g) the receipts evidencing such Depositary Shares (“Receipts”) will have been duly issued against the deposit of such Preferred Stock in accordance with the Deposit Agreement; (h) the Deposit Agreement and such Receipts will be governed by New York law and will not include any provision that is unenforceable; and (i) the Receipts will have been duly executed, countersigned, registered and delivered in accordance with the provisions of the applicable Deposit Agreement to the purchasers thereof upon payment of the agreed-upon consideration therefor;

(xiv) in the case of Purchase Contracts, (a) the Board of the Company will have taken all necessary corporate action to establish the terms thereof and approve the purchase contract agreement and to authorize the form, terms, execution and delivery of the Purchase Contracts; (b) the Purchase Contracts will have been duly executed and delivered by the Company and the other parties thereto; (c) such purchase contract agreement will be the valid and legally binding obligation of the counterparty, enforceable against such party in accordance with its terms; (d) the Common Stock, Preferred Stock or other securities of the Company relating to such Purchase Contracts will have been duly authorized for issuance by the Company; and (e) such Purchase Contracts will be governed by New York law and will not include any provision that is unenforceable;

(xv) in the case of Purchase Units, (a) the Board of the Company will have taken all necessary corporate action to establish the terms thereof and approve the unit agreement and to authorize the form, terms, execution and delivery of the Purchase Units and the terms of the Securities included in such Purchase Units, if any; (b) the Purchase Units will have been duly executed and delivered by the Company and the other parties thereto; (c) the actions with respect to the Purchase Contracts included in such Purchase Units referred to in paragraph (xiv) above will have been taken and the actions with respect to such other Securities referred to in paragraphs (i) through (xiii) above and (xvi) below, as the case may be, will have been taken with respect to such other Securities included in such Purchase Units; (d) if such Purchase Units include securities other than Securities, such other securities will have been duly and validly executed, issued and delivered by the issuer thereof and will be legal, valid and binding obligations of such issuer, enforceable against such issuer in accordance with their respective terms; and (e) such Purchase Units and any agreement or other instrument establishing such Purchase Units or defining the rights of the holders of such Purchase Units will be governed by New York law and will not include any provision that is unenforceable; and

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(xvi) in the case of Units, (a) the Board of the Company will have taken all necessary corporate action to establish the terms of such Units and the terms of the Securities included in such Units, and to approve the unit agreement relating thereto; (b) such Units, or certificates representing such Units, if any, and such unit agreement will have been duly executed and delivered by the parties thereto; (c) the actions referred to in paragraphs (i) through (xiv) above, as the case may be, will have been taken with respect to the Securities included in such Units; (d) any agreement or other instrument establishing such Units or defining the rights of the holders of such Units will be governed by New York law and will not contain any provision that is unenforceable; and (e) the terms of the Units and the related Securities and their issuance and sale will have been duly established in conformity with the applicable contracts, agreements or indentures that are a component of the offered Units (including authorization of the issuance of any Securities to be issued pursuant to such Units).

On the basis of the foregoing, and subject to the assumptions, limitations, qualifications and exceptions set forth herein, we are of the opinion that:

1. The shares of Common Stock and Preferred Stock included in the Securities, when issued, will have been duly authorized and validly issued and will be fully paid and nonassessable.

2. The Debt Securities included in the Securities, when issued, will have been duly authorized and will constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except to the extent that the enforceability thereof may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or conveyance or other similar laws relating to or affecting creditors' rights and remedies generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and comity, (iii) public policy and applicable law relating to fiduciary duties and indemnification or (iv) any implied covenants of good faith and fair dealing.

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3. The Guarantees included in the Securities, when issued, will have been duly authorized and will constitute legal, valid and binding obligations of the Subsidiary Guarantors, enforceable against Subsidiary Guarantors in accordance with their terms, except to the extent that the enforceability thereof may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or conveyance or other similar laws relating to or affecting creditors' rights and remedies generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and comity, (iii) public policy and applicable law relating to fiduciary duties and indemnification or (iv) any implied covenants of good faith and fair dealing.

4. The Depositary Shares included in the Securities, when issued, will have been duly authorized and validly issued, and the Receipts representing the Depositary Shares will entitle the holders thereof to the rights specified therein and in the Deposit Agreement pursuant to which they are issued, except to the extent that the enforceability thereof may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or conveyance or other similar laws relating to or affecting creditors' rights and remedies generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and comity, (iii) public policy and applicable law relating to fiduciary duties and indemnification or (iv) any implied covenants of good faith and fair dealing.

5. The Rights, Warrants, Purchase Contracts, Purchase Units and Units, when issued, will have been duly authorized and will constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except to the extent that the enforceability thereof may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or conveyance or other similar laws relating to or affecting creditors' rights and remedies generally, (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and comity, (iii) public policy and applicable law relating to fiduciary duties and indemnification or (iv) any implied covenants of good faith and fair dealing.

The opinions set forth above are limited in all respects to matters of the contract law of the State of New York, the General Corporation Law of the State of Delaware and applicable federal law of the United States of America, in each case, as in effect on the date hereof.

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We hereby consent to the filing of this opinion of counsel with the Commission as Exhibit 5.1 to the Registration Statement. We also consent to the reference to our Firm under the heading "Legal Matters" in the prospectus forming a part of the Registration Statement. In giving such consent, we do not hereby admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Baker Botts L.L.P.

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Schedule I

Coffeyville Resources Crude Transportation, LLC  
Coffeyville Resources Pipeline, LLC  
Coffeyville Resources Refining & Marketing, LLC  
Coffeyville Resources Terminal, LLC  
Common Assets Holdco, LLC  
Common Services Holdco, LLC  
CVR CHC, LP  
CVR Common Assets CVL, LLC  
CVR Common Assets WYN, LLC  
CVR Common Services, LLC  
CVR Energy Holdings, Inc.  
CVR FHC, LP  
CVR Refining GP, LLC  
CVR Refining, LLC  
CVR Refining, LP  
CVR Refining CVL, LLC  
CVR Refining WYN, LLC  
CVR Renewables, LLC  
CVR Renewables CVL, LLC  
CVR Renewables WYN, LLC  
CVR RHC, LP  
CVR Services, LLC  
CVR Supply & Trading, LLC  
Renewable Assets Holdco, LLC  
Wynnewood Energy Company, LLC  
Wynnewood Refining Company, LLC

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**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We have issued our reports dated February 22, 2022 with respect to the consolidated financial statements and internal control over financial reporting of CVR Energy, Inc. included in the Annual Report on Form 10-K for the year ended December 31, 2021, which are incorporated by reference in this Registration Statement. We consent to the incorporation by reference of the aforementioned reports in this Registration Statement, and to the use of our name as it appears under the caption “Experts.”

/s/ GRANT THORNTON LLP

Dallas, Texas  
August 5, 2022

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**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 TRUST COMPANY, NATIONAL ASSOCIATION**

(Exact name of Trustee as specified in its charter)

**91-1821036**

I.R.S. Employer Identification No.

800 Nicollet Mall Minneapolis, Minnesota	55402
(Address of principal executive offices)	(Zip Code)

Michael K. Herberger  
 U.S. Bank Trust Company, National Association  
 13737 Noel Road, 8<sup>th</sup> Floor  
 Dallas, TX 75240  
 (972) 581-1612  
 (Name, address and telephone number of agent for service)

**CVR Energy, Inc.**

(Issuer with respect to the Securities)

Additional Registrants listed on Schedule A hereto

Delaware	61-1512186
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

2277 Plaza Drive, Suite 500 Sugar Land, Texas	77479
(Address of Principal Executive Offices)	(Zip Code)

**Debt Securities**

(Title of the Indenture Securities)

<b>Exact Name of Additional Registrants</b>	<b>State or other jurisdiction of incorporation or organization</b>	<b>I.R.S. Employer Identification No.</b>
Coffeyville Resources Crude Transportation, LLC	Delaware	20-0466180
Coffeyville Resources Pipeline, LLC	Delaware	20-0466161
Coffeyville Resources Refining & Marketing, LLC	Delaware	20-0465932
Coffeyville Resources Terminal, LLC	Delaware	20-0466222
Common Assets Holdco, LLC	Delaware	88-1567974
Common Services Holdco, LLC	Delaware	88-1652785
CVR CHC, LP	Delaware	88-1782277
CVR Common Assets CVL, LLC	Delaware	88-1675673
CVR Common Assets WYN, LLC	Delaware	88-1626762
CVR Common Services, LLC	Delaware	88-1735266
CVR Energy Holdings, Inc.	Delaware	20-0691675
CVR FHC, LP	Delaware	88-2130176
CVR Refining GP, LLC	Delaware	90-0889628
CVR Refining, LLC	Delaware	90-0889775
CVR Refining, LP	Delaware	37-1702463
CVR Refining CVL, LLC	Delaware	88-1864324
CVR Refining WYN, LLC	Delaware	88-2036712
CVR Renewables, LLC	Delaware	37-1702463
CVR Renewables CVL, LLC	Delaware	86-3981149
CVR Renewables WYN, LLC	Delaware	88-1695575
CVR RHC, LP	Delaware	88-2154789
CVR Services, LLC	Delaware	20-0691675
CVR Supply & Trading, LLC	Delaware	88-1987264
Renewable Assets Holdco, LLC	Delaware	88-1756983
Wynnewood Energy Company, LLC	Delaware	84-0964517
Wynnewood Refining Company, LLC	Delaware	84-1313011

**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 THE 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, attached as Exhibit 1.
  - 2. A 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, attached as Exhibit 4.
  - 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 March 31, 2022, published pursuant to law or the requirements of its supervising or examining authority, attached as Exhibit 7.
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**SIGNATURE**

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the Trustee, U.S. BANK TRUST COMPANY, 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 Dallas, State of Texas on the 5<sup>th</sup> of August, 2022.

By: /s/ MICHAEL K. HERBERGER  
Michael K. Herberger  
Vice President

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**Exhibit 1**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**U. S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**

For the purpose of organizing an association (the "Association") to perform any lawful activities of national banks, the undersigned enter into the following Articles of Association:

**FIRST.** The title of this Association shall be U. S. Bank Trust Company, National Association.

**SECOND.** The main office of the Association shall be in the city of Portland, county of Multnomah, state of Oregon. The business of the Association will be limited to fiduciary powers and the support of activities incidental to the exercise of those powers. The Association may not expand or alter its business beyond that stated in this article without the prior approval of the Comptroller of the Currency.

**THIRD.** The board of directors of the Association shall consist of not less than five nor more than twenty-five persons, the exact number to be fixed and determined from time to time by resolution of a majority of the full board of directors or by resolution of a majority of the shareholders at any annual or special meeting thereof. Each director shall own common or preferred stock of the Association or of a holding company owning the Association, with an aggregate par, fair market, or equity value of not less than \$1,000, as of either (i) the date of purchase, (ii) the date the person became a director, or (iii) the date of that person's most recent election to the board of directors, whichever is more recent. Any combination of common or preferred stock of the Association or holding company may be used.

Any vacancy in the board of directors may be filled by action of a majority of the remaining directors between meetings of shareholders. The board of directors may increase the number of directors up to the maximum permitted by law. Terms of directors, including directors selected to fill vacancies, shall expire at the next regular meeting of shareholders at which directors are elected, unless the directors resign or are removed from office. Despite the expiration of a director's term, the director shall continue to serve until his or her successor is elected and qualified or until there is a decrease in the number of directors and his or her position is eliminated.

Honorary or advisory members of the board of directors, without voting power or power of final decision in matters concerning the business of the Association, may be appointed by resolution of a majority of the full board of directors, or by resolution of shareholders at any annual or special meeting. Honorary or advisory directors shall not be counted to determine the number of directors of the Association or the presence of a quorum in connection with any board action, and shall not be required to own qualifying shares.

**FOURTH.** There shall be an annual meeting of the shareholders to elect directors and transact whatever other business may be brought before the meeting. It shall be held at the main office or any other convenient place the board of directors may designate, on the day of each year specified therefor in the Bylaws, or if that day falls on a legal holiday in the state in which the Association is located, on the next following banking day. If no election is held on the day fixed or in the event of a legal holiday on the following banking day, an election may be held on any subsequent day within 60 days of the day fixed, to be designated by the board of directors, or, if the directors fail to fix the day, by shareholders representing two-thirds of the shares issued and outstanding. In all cases, at least 10 days' advance notice of the meeting shall be given to the shareholders by first-class mail.

In all elections of directors, the number of votes each common shareholder may cast will be determined by multiplying the number of shares he or she owns by the number of directors to be elected. Those votes may be cumulated and cast for a single candidate or may be distributed among two or more candidates in the manner selected by the shareholder. On all other questions, each common shareholder shall be entitled to one vote for each share of stock held by him or her.

A director may resign at any time by delivering written notice to the board of directors, its chairperson, or to the Association, which resignation shall be effective when the notice is delivered unless the notice specifies a later effective date.

A director may be removed by the shareholders at a meeting called to remove him or her, when notice of the meeting stating that the purpose or one of the purposes is to remove him or her is provided, if there is a failure to fulfill one of the affirmative requirements for qualification, or for cause; provided, however, that a director may not be removed if the number of votes sufficient to elect him or her under cumulative voting is voted against his or her removal.

**FIFTH.** The authorized amount of capital stock of the Association shall be 1,000,000 shares of common stock of the par value of ten dollars (\$10) each; but said capital stock may be increased or decreased from time to time, according to the provisions of the laws of the United States. The Association shall have only one class of capital stock.

No holder of shares of the capital stock of any class of the Association shall have any preemptive or preferential right of subscription to any shares of any class of stock of the Association, whether now or hereafter authorized, or to any obligations convertible into stock of the Association, issued, or sold, nor any right of subscription to any thereof other than such, if any, as the board of directors, in its discretion, may from time to time determine and at such price as the board of directors may from time to time fix.

Transfers of the Association's stock are subject to the prior written approval of a federal depository institution regulatory agency. If no other agency approval is required, the approval of the Comptroller of the Currency must be obtained prior to any such transfers.

Unless otherwise specified in the Articles of Association or required by law, (1) all matters requiring shareholder action, including amendments to the Articles of Association must be approved by shareholders owning a majority voting interest in the outstanding voting stock, and (2) each shareholder shall be entitled to one vote per share.

Unless otherwise specified in the Articles of Association or required by law, all shares of voting stock shall be voted together as a class, on any matters requiring shareholder approval.

Unless otherwise provided in the Bylaws, the record date for determining shareholders entitled to notice of and to vote at any meeting is the close of business on the day before the first notice is mailed or otherwise sent to the shareholders, provided that in no event may a record date be more than 70 days before the meeting.

The Association, at any time and from time to time, may authorize and issue debt obligations, whether subordinated, without the approval of the shareholders. Obligations classified as debt, whether subordinated, which may be issued by the Association without the approval of shareholders, do not carry voting rights on any issue, including an increase or decrease in the aggregate number of the securities, or the exchange or reclassification of all or part of securities into securities of another class or series.

**SIXTH.** The board of directors shall appoint one of its members president of this Association and one of its members chairperson of the board and shall have the power to appoint one or more vice presidents, a secretary who shall keep minutes of the directors' and shareholders' meetings and be responsible for authenticating the records of the Association, and such other officers and employees as may be required to transact the business of this Association. A duly appointed officer may appoint one or more officers or assistant officers if authorized by the board of directors in accordance with the Bylaws.

The board of directors shall have the power to:

- (1) Define the duties of the officers, employees, and agents of the Association.
- (2) Delegate the performance of its duties, but not the responsibility for its duties, to the officers, employees, and agents of the Association.
- (3) Fix the compensation and enter employment contracts with its officers and employees upon reasonable terms and conditions consistent with applicable law.
- (4) Dismiss officers and employees.
- (5) Require bonds from officers and employees and to fix the penalty thereof.
- (6) Ratify written policies authorized by the Association's management or committees of the board.
- (7) Regulate the manner any increase or decrease of the capital of the Association shall be made; provided that nothing herein shall restrict the power of shareholders to increase or decrease the capital of the Association in accordance with law, and nothing shall raise or lower from two-thirds the percentage required for shareholder approval to increase or reduce the capital.



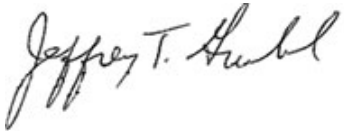
- (8) Manage and administer the business and affairs of the Association.
- (9) Adopt initial Bylaws, not inconsistent with law or the Articles of Association, for managing the business and regulating the affairs of the Association.
- (10) Amend or repeal Bylaws, except to the extent that the Articles of Association reserve this power in whole or in part to the shareholders.
- (11) Make contracts.
- (12) Generally perform all acts that are legal for a board of directors to perform.

**SEVENTH.** The board of directors shall have the power to change the location of the main office to any authorized branch within the limits of the city of Portland, Oregon, without the approval of the shareholders, or with a vote of shareholders owning two-thirds of the stock of the Association for a location outside such limits and upon receipt of a certificate of approval from the Comptroller of the Currency, to any other location within or outside the limits of the city of Portland, Oregon, but not more than thirty miles beyond such limits. The board of directors shall have the power to establish or change the location of any office or offices of the Association to any other location permitted under applicable law, without approval of shareholders, subject to approval by the Comptroller of the Currency.

**EIGHTH.** The corporate existence of this Association shall continue until termination according to the laws of the United States.

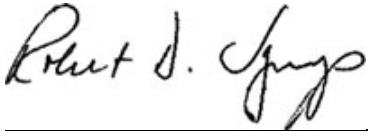
**NINTH.** The board of directors of the Association, or any shareholder owning, in the aggregate, not less than 25 percent of the stock of the Association, may call a special meeting of shareholders at any time. Unless otherwise provided by the Bylaws or the laws of the United States, or waived by shareholders, a notice of the time, place, and purpose of every annual and special meeting of the shareholders shall be given by first-class mail, postage prepaid, mailed at least 10, and no more than 60, days prior to the date of the meeting to each shareholder of record at his/her address as shown upon the books of the Association. Unless otherwise provided by the Bylaws, any action requiring approval of shareholders must be effected at a duly called annual or special meeting.

**TENTH.** These Articles of Association may be amended at any regular or special meeting of the shareholders by the affirmative vote of the holders of a majority of the stock of the Association, unless the vote of the holders of a greater amount of stock is required by law, and in that case by the vote of the holders of such greater amount; provided, that the scope of the Association's activities and services may not be expanded without the prior written approval of the Comptroller of the Currency. The Association's board of directors may propose one or more amendments to the Articles of Association for submission to the shareholders.



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Jeffrey T. Grubb



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Robert D. Sznewajs



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Dwight V. Board



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P. K. Chatterjee



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Robert Lane

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**CERTIFICATE OF CORPORATE EXISTENCE**

I, Michael J. Hsu, 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 Trust Company, National Association," Portland, Oregon (Charter No. 23412), 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, January 12, 2022, 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

A handwritten signature in black ink, appearing to read "Michael J. Hsu".

Acting Comptroller of the Currency





**CERTIFICATE OF FIDUCIARY POWERS**

I, Michael J. Hsu, 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 Trust Company, National Association," Portland, Oregon (Charter No. 23412), 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, January 19, 2022, 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.

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Acting Comptroller of the Currency



Exhibit 4

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION

AMENDED AND RESTATED BYLAWS

ARTICLE I

Meetings of Shareholders

Section 1.1. Annual Meeting. The annual meeting of the shareholders, for the election of directors and the transaction of any other proper business, shall be held at a time and place as the Chairman or President may designate. Notice of such meeting shall be given not less than ten (10) days or more than sixty (60) days prior to the date thereof, to each shareholder of the Association, unless the Office of the Comptroller of the Currency (the "OCC") determines that an emergency circumstance exists. In accordance with applicable law, the sole shareholder of the Association is permitted to waive notice of the meeting. If, for any reason, an election of directors is not made on the designated day, the election shall be held on some subsequent day, as soon thereafter as practicable, with prior notice thereof. Failure to hold an annual meeting as required by these Bylaws shall not affect the validity of any corporate action or work a forfeiture or dissolution of the Association.

Section 1.2. Special Meetings. Except as otherwise specially provided by law, special meetings of the shareholders may be called for any purpose, at any time by a majority of the board of directors (the "Board"), or by any shareholder or group of shareholders owning at least ten percent of the outstanding stock. Every such special meeting, unless otherwise provided by law, shall be called upon not less than ten (10) days nor more than sixty (60) days prior notice stating the purpose of the meeting.

Section 1.3. Nominations for Directors. Nominations for election to the Board may be made by the Board or by any shareholder.

Section 1.4. Proxies. Shareholders may vote at any meeting of the shareholders by proxies duly authorized in writing. Proxies shall be valid only for one meeting and any adjournments of such meeting and shall be filed with the records of the meeting.

Section 1.5. Record Date. The record date for determining shareholders entitled to notice and to vote at any meeting will be thirty days before the date of such meeting, unless otherwise determined by the Board.

Section 1.6. Quorum and Voting. A majority of the outstanding capital stock, represented in person or by proxy, shall constitute a quorum at any meeting of shareholders, unless otherwise provided by law, but less than a quorum may adjourn any meeting, from time to time, and the meeting may be held as adjourned without further notice. A majority of the votes cast shall decide every question or matter submitted to the shareholders at any meeting, unless otherwise provided by law or by the Articles of Association.

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Section 1.7. Inspectors. The Board may, and in the event of its failure so to do, the Chairman of the Board may appoint Inspectors of Election who shall determine the presence of quorum, the validity of proxies, and the results of all elections and all other matters voted upon by shareholders at all annual and special meetings of shareholders.

Section 1.8. Waiver and Consent. The shareholders may act without notice or a meeting by a unanimous written consent by all shareholders.

Section 1.9. Remote Meetings. The Board shall have the right to determine that a shareholder meeting not be held at a place, but instead be held solely by means of remote communication in the manner and to the extent permitted by the General Corporation Law of the State of Delaware.

## ARTICLE II

### Directors

Section 2.1. Board of Directors. The Board shall have the power to manage and administer the business and affairs of the Association. Except as expressly limited by law, all corporate powers of the Association shall be vested in and may be exercised by the Board.

Section 2.2. Term of Office. The directors of this Association shall hold office for one year and until their successors are duly elected and qualified, or until their earlier resignation or removal.

Section 2.3. Powers. In addition to the foregoing, the Board shall have and may exercise all of the powers granted to or conferred upon it by the Articles of Association, the Bylaws and by law.

Section 2.4. Number. As provided in the Articles of Association, the Board of this Association shall consist of no less than five nor more than twenty-five members, unless the OCC has exempted the Association from the twenty-five-member limit. The Board shall consist of a number of members to be fixed and determined from time to time by resolution of the Board or the shareholders at any meeting thereof, in accordance with the Articles of Association. Between meetings of the shareholders held for the purpose of electing directors, the Board by a majority vote of the full Board may increase the size of the Board but not to more than a total of twenty-five directors, and fill any vacancy so created in the Board; provided that the Board may increase the number of directors only by up to two directors, when the number of directors last elected by shareholders was fifteen or fewer, and by up to four directors, when the number of directors last elected by shareholders was sixteen or more. Each director shall own a qualifying equity interest in the Association or a company that has control of the Association in each case as required by applicable law. Each director shall own such qualifying equity interest in his or her own right and meet any minimum threshold ownership required by applicable law.

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Section 2.5. Organization Meeting. The newly elected Board shall meet for the purpose of organizing the new Board and electing and appointing such officers of the Association as may be appropriate. Such meeting shall be held on the day of the election or as soon thereafter as practicable, and, in any event, within thirty days thereafter, at such time and place as the Chairman or President may designate. If, at the time fixed for such meeting, there shall not be a quorum present, the directors present may adjourn the meeting until a quorum is obtained.

Section 2.6. Regular Meetings. The regular meetings of the Board shall be held, without notice, as the Chairman or President may designate and deem suitable.

Section 2.7. Special Meetings. Special meetings of the Board may be called at any time, at any place and for any purpose by the Chairman of the Board or the President of the Association, or upon the request of a majority of the entire Board. Notice of every special meeting of the Board shall be given to the directors at their usual places of business, or at such other addresses as shall have been furnished by them for the purpose. Such notice shall be given at least twelve hours (three hours if meeting is to be conducted by conference telephone) before the meeting by telephone or by being personally delivered, mailed, or electronically delivered. Such notice need not include a statement of the business to be transacted at, or the purpose of, any such meeting.

Section 2.8. Quorum and Necessary Vote. A majority of the directors shall constitute a quorum at any meeting of the Board, except when otherwise provided by law; but less than a quorum may adjourn any meeting, from time to time, and the meeting may be held as adjourned without further notice. Unless otherwise provided by law or the Articles or Bylaws of this Association, once a quorum is established, any act by a majority of those directors present and voting shall be the act of the Board.

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Section 2.9. Written Consent. Except as otherwise required by applicable laws and regulations, the Board may act without a meeting by a unanimous written consent by all directors, to be filed with the Secretary of the Association as part of the corporate records.

Section 2.10. Remote Meetings. Members of the Board, or of any committee thereof, may participate in a meeting of such Board or committee by means of conference telephone, video or similar communications equipment by means of which all persons participating in the meeting can hear each other and such participation shall constitute presence in person at such meeting.

Section 2.11. Vacancies. When any vacancy occurs among the directors, the remaining members of the Board may appoint a director to fill such vacancy at any regular meeting of the Board, or at a special meeting called for that purpose.

### ARTICLE III Committees

Section 3.1. Advisory Board of Directors. The Board may appoint persons, who need not be directors, to serve as advisory directors on an advisory board of directors established with respect to the business affairs of either this Association alone or the business affairs of a group of affiliated organizations of which this Association is one. Advisory directors shall have such powers and duties as may be determined by the Board, provided, that the Board's responsibility for the business and affairs of this Association shall in no respect be delegated or diminished.

Section 3.2. Trust Audit Committee. At least once during each calendar year, the Association shall arrange for a suitable audit (by internal or external auditors) of all significant fiduciary activities under the direction of its trust audit committee, a function that will be fulfilled by the Audit Committee of the financial holding company that is the ultimate parent of this Association. The Association shall note the results of the audit (including significant actions taken as a result of the audit) in the minutes of the Board. In lieu of annual audits, the Association may adopt a continuous audit system in accordance with 12 C.F.R. § 9.9(b).

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The Audit Committee of the financial holding company that is the ultimate parent of this Association, fulfilling the function of the trust audit committee:

(1) Must not include any officers of the Association or an affiliate who participate significantly in the administration of the Association's fiduciary activities; and

(2) Must consist of a majority of members who are not also members of any committee to which the Board has delegated power to manage and control the fiduciary activities of the Association.

Section 3.3. Executive Committee. The Board may appoint an Executive Committee which shall consist of at least three directors and which shall have, and may exercise, to the extent permitted by applicable law, all the powers of the Board between meetings of the Board or otherwise when the Board is not meeting.

Section 3.4. Trust Management Committee. The Board of this Association shall appoint a Trust Management Committee to provide oversight of the fiduciary activities of the Association. The Trust Management Committee shall determine policies governing fiduciary activities. The Trust Management Committee or such sub-committees, officers or others as may be duly designated by the Trust Management Committee shall oversee the processes related to fiduciary activities to assure conformity with fiduciary policies it establishes, including ratifying the acceptance and the closing out or relinquishment of all trusts. The Trust Management Committee will provide regular reports of its activities to the Board.

Section 3.5. Other Committees. The Board may appoint, from time to time, committees of one or more persons who need not be directors, for such purposes and with such powers as the Board may determine; however, the Board will not delegate to any committee any powers or responsibilities that it is prohibited from delegating under any law or regulation. In addition, either the Chairman or the President may appoint, from time to time, committees of one or more officers, employees, agents or other persons, for such purposes and with such powers as either the Chairman or the President deems appropriate and proper. Whether appointed by the Board, the Chairman, or the President, any such committee shall at all times be subject to the direction and control of the Board.

Section 3.6. Meetings, Minutes and Rules. An advisory board of directors and/or committee shall meet as necessary in consideration of the purpose of the advisory board of directors or committee, and shall maintain minutes in sufficient detail to indicate actions taken or recommendations made; unless required by the members, discussions, votes or other specific details need not be reported. An advisory board of directors or a committee may, in consideration of its purpose, adopt its own rules for the exercise of any of its functions or authority.

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ARTICLE IV  
Officers

Section 4.1. Chairman of the Board. The Board may appoint one of its members to be Chairman of the Board to serve at the pleasure of the Board. The Chairman shall supervise the carrying out of the policies adopted or approved by the Board; shall have general executive powers, as well as the specific powers conferred by these Bylaws; and shall also have and may exercise such powers and duties as from time to time may be conferred upon or assigned by the Board.

Section 4.2. President. The Board may appoint one of its members to be President of the Association. In the absence of the Chairman, the President shall preside at any meeting of the Board. The President shall have general executive powers, and shall have and may exercise any and all other powers and duties pertaining by law, regulation or practice, to the office of President, or imposed by these Bylaws. The President shall also have and may exercise such powers and duties as from time to time may be conferred or assigned by the Board.

Section 4.3. Vice President. The Board may appoint one or more Vice Presidents who shall have such powers and duties as may be assigned by the Board and to perform the duties of the President on those occasions when the President is absent, including presiding at any meeting of the Board in the absence of both the Chairman and President.

Section 4.4. Secretary. The Board shall appoint a Secretary, or other designated officer who shall be Secretary of the Board and of the Association, and shall keep accurate minutes of all meetings. The Secretary shall attend to the giving of all notices required by these Bylaws to be given; shall be custodian of the corporate seal, records, documents and papers of the Association; shall provide for the keeping of proper records of all transactions of the Association; shall, upon request, authenticate any records of the Association; shall have and may exercise any and all other powers and duties pertaining by law, regulation or practice, to the Secretary, or imposed by these Bylaws; and shall also perform such other duties as may be assigned from time to time by the Board. The Board may appoint one or more Assistant Secretaries with such powers and duties as the Board, the President or the Secretary shall from time to time determine.

Section 4.5. Other Officers. The Board may appoint, and may authorize the Chairman, the President or any other officer to appoint, any officer as from time to time may appear to the Board, the Chairman, the President or such other officer to be required or desirable to transact the business of the Association. Such officers shall exercise such powers and perform such duties as pertain to their several offices, or as may be conferred upon or assigned to them by these Bylaws, the Board, the Chairman, the President or such other authorized officer. Any person may hold two offices.

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Section 4.6. Tenure of Office. The Chairman or the President and all other officers shall hold office until their respective successors are elected and qualified or until their earlier death, resignation, retirement, disqualification or removal from office, subject to the right of the Board or authorized officer to discharge any officer at any time.

#### ARTICLE V

##### Stock

Section 5.1. The Board may authorize the issuance of stock either in certificated or in uncertificated form. Certificates for shares of stock shall be in such form as the Board may from time to time prescribe. If the Board issues certificated stock, the certificate shall be signed by the President, Secretary or any other such officer as the Board so determines. Shares of stock shall be transferable on the books of the Association, and a transfer book shall be kept in which all transfers of stock shall be recorded. Every person becoming a shareholder by such transfer shall, in proportion to such person's shares, succeed to all rights of the prior holder of such shares. Each certificate of stock shall recite on its face that the stock represented thereby is transferable only upon the books of the Association properly endorsed. The Board may impose conditions upon the transfer of the stock reasonably calculated to simplify the work of the Association for stock transfers, voting at shareholder meetings, and related matters, and to protect it against fraudulent transfers.

#### ARTICLE VI

##### Corporate Seal

Section 6.1. The Association shall have no corporate seal; provided, however, that if the use of a seal is required by, or is otherwise convenient or advisable pursuant to, the laws or regulations of any jurisdiction, the following seal may be used, and the Chairman, the President, the Secretary and any Assistant Secretary shall have the authority to affix such seal:

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ARTICLE VII  
Miscellaneous Provisions

Section 7.1. Execution of Instruments. All agreements, checks, drafts, orders, indentures, notes, mortgages, deeds, conveyances, transfers, endorsements, assignments, certificates, declarations, receipts, discharges, releases, satisfactions, settlements, petitions, schedules, accounts, affidavits, bonds, undertakings, guarantees, proxies and other instruments or documents may be signed, countersigned, executed, acknowledged, endorsed, verified, delivered or accepted on behalf of the Association, whether in a fiduciary capacity or otherwise, by any officer of the Association, or such employee or agent as may be designated from time to time by the Board by resolution, or by the Chairman or the President by written instrument, which resolution or instrument shall be certified as in effect by the Secretary or an Assistant Secretary of the Association. The provisions of this section are supplementary to any other provision of the Articles of Association or Bylaws.

Section 7.2. Records. The Articles of Association, the Bylaws as revised or amended from time to time and the proceedings of all meetings of the shareholders, the Board, and standing committees of the Board, shall be recorded in appropriate minute books provided for the purpose. The minutes of each meeting shall be signed by the Secretary, or other officer appointed to act as Secretary of the meeting.

Section 7.3. Trust Files. There shall be maintained in the Association files all fiduciary records necessary to assure that its fiduciary responsibilities have been properly undertaken and discharged.

Section 7.4. Trust Investments. Funds held in a fiduciary capacity shall be invested according to the instrument establishing the fiduciary relationship and according to law. Where such instrument does not specify the character and class of investments to be made and does not vest in the Association a discretion in the matter, funds held pursuant to such instrument shall be invested in investments in which corporate fiduciaries may invest under law.

Section 7.5. Notice. Whenever notice is required by the Articles of Association, the Bylaws or law, such notice shall be by mail, postage prepaid, e-mail, in person, or by any other means by which such notice can reasonably be expected to be received, using the address of the person to receive such notice, or such other personal data, as may appear on the records of the Association.

Except where specified otherwise in these Bylaws, prior notice shall be proper if given not more than 30 days nor less than 10 days prior to the event for which notice is given.

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ARTICLE VIII  
Indemnification

Section 8.1. The Association shall indemnify such persons for such liabilities in such manner under such circumstances and to such extent as permitted by Section 145 of the Delaware General Corporation Law, as now enacted or hereafter amended. The Board may authorize the purchase and maintenance of insurance and/or the execution of individual agreements for the purpose of such indemnification, and the Association shall advance all reasonable costs and expenses (including attorneys' fees) incurred in defending any action, suit or proceeding to all persons entitled to indemnification under this Section 8.1. Such insurance shall be consistent with the requirements of 12 C.F.R. § 7.2014 and shall exclude coverage of liability for a formal order assessing civil money penalties against an institution-affiliated party, as defined at 12 U.S.C. § 1813(u).

Section 8.2. Notwithstanding Section 8.1, however, (a) any indemnification payments to an institution-affiliated party, as defined at 12 U.S.C. § 1813(u), for an administrative proceeding or civil action initiated by a federal banking agency, shall be reasonable and consistent with the requirements of 12 U.S.C. § 1828(k) and the implementing regulations thereunder; and (b) any indemnification payments and advancement of costs and expenses to an institution-affiliated party, as defined at 12 U.S.C. § 1813(u), in cases involving an administrative proceeding or civil action not initiated by a federal banking agency, shall be in accordance with Delaware General Corporation Law and consistent with safe and sound banking practices.

ARTICLE IX  
Bylaws: Interpretation and Amendment

Section 9.1. These Bylaws shall be interpreted in accordance with and subject to appropriate provisions of law, and may be added to, altered, amended, or repealed, at any regular or special meeting of the Board.

Section 9.2. A copy of the Bylaws and all amendments shall at all times be kept in a convenient place at the principal office of the Association, and shall be open for inspection to all shareholders during Association hours.

ARTICLE X  
Miscellaneous Provisions

Section 10.1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January in each year and shall end on the thirty-first day of December following.

Section 10.2. Governing Law. This Association designates the Delaware General Corporation Law, as amended from time to time, as the governing law for its corporate governance procedures, to the extent not inconsistent with Federal banking statutes and regulations or bank safety and soundness.

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(February 8, 2021)

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**Exhibit 6**

**CONSENT**

In accordance with Section 321(b) of the Trust Indenture Act of 1939, the undersigned, U.S. BANK TRUST COMPANY, 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: August 5, 2022

By: /s/ MICHAEL K. HERBERGER

Michael K. Herberger

Vice President

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**Exhibit 7**  
**U.S. Bank Trust Company, National Association**  
**Statement of Financial Condition**  
**as of 3/31/2022**

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	<u>3/31/2022</u>
<b>Assets</b>	
Cash and Balances Due From Depository Institutions	\$612,028
Securities	4,678
Federal Funds	0
Loans & Lease Financing Receivables	0
Fixed Assets	2,935
Intangible Assets	583,387
Other Assets	70,964
<b>Total Assets</b>	<u><b>\$1,273,992</b></u>
<b>Liabilities</b>	
Deposits	\$0
Fed Funds	0
Treasury Demand Notes	0
Trading Liabilities	0
Other Borrowed Money	0
Acceptances	0
Subordinated Notes and Debentures	0
Other Liabilities	81,226
<b>Total Liabilities</b>	<u><b>\$81,226</b></u>
<b>Equity</b>	
Common and Preferred Stock	200
Surplus	1,171,635
Undivided Profits	20,931
Minority Interest in Subsidiaries	0
<b>Total Equity Capital</b>	<u><b>\$1,192,766</b></u>
<b>Total Liabilities and Equity Capital</b>	<u><b>\$1,273,992</b></u>

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**Calculation of Filing Fee Tables**

**Form S-3**  
(Form Type)

**CVR Energy, Inc.**  
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered and Carry Forward Securities

	Security Type	Security Class Title(1)	Fee Calculation or Carry Forward Rule	Amount Registered	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee	Carry Forward Form Type	Carry Forward File Number	Carry Forward Initial Effective Date	Filing Fee Previously Paid In Connection with Unsold Securities to be Carried Forward
<b>Newly Registered Securities</b>												
Fees to Be Paid	Equity	Common Stock, par value \$0.01 per share	Rule 456(b) and Rule 457(r)	(2)	(2)	(2)	(3)	(3)				
Fees to Be Paid	Equity	Preferred Stock, par value \$0.01 per share	Rule 456(b) and Rule 457(r)	(2)	(2)	(2)	(3)	(3)				
Fees to Be Paid	Other	Rights	Rule 456(b) and Rule 457(r)	(2)	(2)	(2)	(3)	(3)				
Fees to Be Paid	Debt	Debt Securities	Rule 456(b) and Rule 457(r)	(2)	(2)	(2)	(3)	(3)				
Fees to Be Paid	Debt	Guarantees of Debt Securities	Rule 456(b) and Rule 457(r)	(2)	(2)	(2)	(3)	(3)				
Fees to Be Paid	Other	Warrants	Rule 456(b) and Rule 457(r)	(2)	(2)	(2)	(3)	(3)				
Fees to Be Paid	Other	Depository Shares	Rule 456(b) and Rule 457(r)	(2)	(2)	(2)	(3)	(3)				
Fees to Be Paid	Other	Purchase Contracts	Rule 456(b) and Rule 457(r)	(2)	(2)	(2)	(3)	(3)				
Fees to Be Paid	Other	Purchase Units	Rule 456(b) and Rule 457(r)	(2)	(2)	(2)	(3)	(3)				
Fees to Be Paid	Other	Units	Rule 456(b) and Rule 457(r)	(2)	(2)	(2)	(3)	(3)				
Fees Previously Paid	N/A	N/A	N/A	N/A	N/A	N/A		N/A				
<b>Carry Forward Securities</b>												
Carry Forward Securities	N/A	N/A	N/A	N/A		N/A			N/A	N/A	N/A	N/A
			Total Offering Amounts			N/A		N/A				
			Total Fees Previously Paid					N/A				
			Total Fee Offsets					N/A				
			Net Fee Due					N/A				

- (1) Any securities registered hereunder may be sold separately, together or in units with other securities registered hereunder. Separate consideration may or may not be received for any securities issued upon the conversion, redemption, exchange, exercise or settlement of any securities registered hereunder.
- (2) There is to be registered hereunder such indeterminate number or amount of securities of each identified class as may from time to time be issued by the registrant at indeterminate prices and as may be issuable upon conversion, redemption, exchange, exercise or settlement of any securities registered hereunder.



hereunder, including under any applicable anti-dilution provisions.

- (3) In reliance on Rule 456(b) and Rule 457(r) under the Securities Act of 1933, as amended (the "Securities Act"), the registrant is deferring payment of all registration fees. In connection with the securities offered hereby, the registrant will pay "pay-as-you-go registration fees" in accordance with Rule 456(b). The registrant will calculate the registration fee applicable to an offer of securities pursuant to this registration statement based on the fee payment rate in effect on the date of such fee payment. Pursuant to Rule 457(n) under the Securities Act, no additional filing fee is payable in respect of the guarantees registered hereunder. The guarantees will not trade separately from the debt securities of which they are guarantees.
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