

Jewell Resources Corp
Form S-3
July 29, 2016
Table of Contents

As filed with the Securities and Exchange Commission on July 29, 2016

Registration No. 333-

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

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

SUNCOKE ENERGY, INC.*

(Exact Name of Registrant as Specified in Its Charter)

Delaware*
(State or Other Jurisdiction of
Incorporation or Organization)

90-0640593*
(I.R.S. Employer
Identification Number)

1011 Warrenville Road, Suite 600

Lisle, IL 60532

(630) 824-1000**

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Katherine T. Gates

1011 Warrenville Road, Suite 600

Lisle, IL 60532

(630) 824-1000

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent For Service)

Copies to:

Gillian A. Hobson

Vinson & Elkins L.L.P.

1001 Fannin Street, Suite 2500

Houston, TX 77002-6760

(713) 758-2222

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement as determined by market conditions and other factors.

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, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>

(Do not check if a smaller reporting company)

Table of Contents**CALCULATION OF REGISTRATION FEE**

Title of each class of securities to be registered	Amount to be registered (1)(2)	Proposed	Proposed	Amount of registration fee (1)(3)
		maximum aggregate offering price per share (1)(2)	maximum aggregate offering price (1)(2)	
Common stock, \$0.01 par value per share				
Preferred stock, \$0.01 par value per share				
Debt securities (4)				
Warrants (5)				
Rights (6)				
Units (7)				
Guarantees of debt securities (8)				
Total			\$500,000,000	\$50,350

- (1) Pursuant to General Instruction II.D of Form S-3 and Rule 457(o) under the Securities Act of 1933, as amended (the *Securities Act*), the registration fee is calculated on the basis of the initial maximum aggregate offering price of \$500,000,000 for all of the securities listed and, therefore, the table does not specify by each class information as to the amount to be registered or the proposed maximum offering price per security.
- (2) This registration statement covers an indeterminate number or principal amount of each identified class of securities that may be issued in primary offerings, or upon exercise, conversion or exchange of any securities registered hereunder that provide for exercise, conversion or exchange, which shall have an initial maximum aggregate offering price not to exceed \$500,000,000, exclusive of accrued interest and dividends, if any. Pursuant to Rule 416 under the Securities Act, this registration statement also covers such additional number of securities that may be issuable upon exercise, conversion or exchange of other securities or that may become issuable as a result of any stock splits, stock dividends or similar transactions.
- (3) The registration fee has been calculated in accordance with Rule 457(o) under the Securities Act, and is exclusive of accrued interest and dividends, if any.
- (4) With respect to debt securities, excludes accrued interest and accrued amortization of discount, if any, to the date of delivery. If any debt securities are issued at an original issue discount, then the offering price of such debt securities shall be equal to any such greater principal amount due at maturity, such aggregate principal amount not to exceed \$500,000,000 less the value of any securities previously issued hereunder.
- (5) Warrants will represent rights to purchase the debt securities, common stock, or preferred stock being registered hereby. Since the warrants will provide a right only to purchase such securities offered hereunder, no additional registration fee is required.
- (6) Rights will represent rights to purchase shares of common stock or shares of preferred stock being registered hereby. Since the rights will provide a right only to purchase such securities offered hereunder, no additional

registration fee is required.

- (7) Each unit will be issued under a unit agreement and will represent an interest in two or more other securities, which may or may not be separable from one another.
- (8) If a series of debt securities is guaranteed, such series will be guaranteed by one or more of the subsidiaries of SunCoke Energy, Inc. No additional consideration will be received for such guarantees. Pursuant to Rule 457(n) of the Securities Act, no separate fee is payable with respect to the guarantees of the debt securities being registered.

***TABLE OF SUBSIDIARY GUARANTOR REGISTRANTS**

Exact Name of Registrant as Specified in its Charter	State or Other Jurisdiction of Incorporation or Organization	I.R.S. Employer Identification No.
Dismal River Terminal LLC	Delaware	47-1930949
Elk River Minerals Corporation	Delaware	23-2376891
Indiana Harbor Coke Company	Delaware	23-2866196
Indiana Harbor Coke Corporation	Indiana	23-2866198
Jewell Coal & Coke Company, Inc.	Virginia	62-0523521
Jewell Coke Acquisition Company	Virginia	26-4616339
Jewell Coke Company, L.P.	Delaware	23-2818770
Jewell Resources Corporation	Virginia	62-0975192
Jewell Smokeless Coal Corporation	Virginia	62-0857142
Oakwood Red Ash Coal Corporation	Virginia	54-0649232
Sun Coal & Coke LLC	Delaware	23-2268198
SunCoke Domestic Finance Corp	Delaware	47-1921053
SunCoke Energy South Shore LLC	Delaware	26-4277070
SunCoke Technology and Development LLC	Delaware	62-1070598

** Each subsidiary guarantor registrant has its principal executive office at c/o SunCoke Energy, Inc., 1011 Warrenville Road, Suite 600, Lisle, Illinois 60532 (telephone: (630) 824-1000).

The registrants hereby amend this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrants shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a) of the Securities Act, may determine.

Table of Contents

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

SUBJECT TO COMPLETION, DATED JULY 29, 2016

PROSPECTUS

\$500,000,000

Common Stock

Preferred Stock

Debt Securities

Warrants

Rights

Units

Guarantees of Debt Securities

SunCoke Energy, Inc. (the *Company*, *we*, *our* or *us*) may from time to time, in one or more offerings, offer and sell shares of our common stock; shares of our preferred stock in one or more series, which may be converted into or exchanged for debt securities or common stock; senior debt securities; subordinated debt securities; warrants to purchase common stock, preferred stock, debt securities, or other securities; rights to purchase common or preferred stock; and units consisting of two or more of these classes or series of securities. Any debt securities that we issue may be guaranteed by one or more of our subsidiaries.

The aggregate initial offering price of the securities that we will offer will not exceed \$500,000,000. We will offer these securities in amounts, at prices and on terms to be determined by market conditions at the time of our offering. We will provide the specific terms of these securities in supplements to this prospectus. You should read this prospectus and any prospectus supplements carefully before you invest in these securities. This prospectus may not be used to consummate sales of these securities unless accompanied by a prospectus supplement.

This prospectus describes only the general terms of the securities and the general manner in which we will offer the securities. The specific terms of any securities that we may offer will be included in a supplement to this prospectus. The prospectus supplement will describe the specific manner in which we will offer the securities and also may add, update or change information contained in this prospectus.

These securities may be sold to or through one or more underwriters, dealers and agents, or directly to purchasers, on a continuous or delayed basis, in amounts, at prices and at terms to be determined by market conditions and other factors at the time of the offering. The names of any underwriters or of any dealers or agents and the specific terms of a plan of distribution will be stated in the prospectus supplement.

Our common stock is traded on the New York Stock Exchange (*NYSE*) under the symbol *SXC*. On July 28, 2016, the closing sale price of our common stock, as reported on the NYSE was \$7.06 per share.

Investing in our securities involves risks. You should carefully consider the risks related to investing in our securities and each of the risk factors described under Risk Factors beginning on page 3 of this prospectus and in the applicable prospectus supplement and in the documents incorporated herein and therein before you make an investment in our securities.

Neither the Securities and Exchange Commission (*SEC*) 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.

The date of this prospectus is , 2016.

Table of Contents**TABLE OF CONTENTS**

<u>About This Prospectus</u>	ii
<u>Where You Can Find More Information</u>	ii
<u>Information We Incorporate by Reference</u>	ii
<u>Cautionary Note Regarding Forward-Looking Statements</u>	iv
<u>Who We Are</u>	1
<u>The Subsidiary Guarantors</u>	2
<u>Risk Factors</u>	3
<u>Use of Proceeds</u>	4
<u>Ratio of Earnings to Fixed Charges</u>	5
<u>Description of the Equity Securities</u>	6
<u>Description of the Debt Securities</u>	12
<u>Description of the Warrants</u>	25
<u>Description of Rights</u>	26
<u>Description of Units</u>	27
<u>Plan of Distribution</u>	28
<u>Legal Matters</u>	32
<u>Experts</u>	32

In making your investment decision, you should rely only on the information contained in this prospectus, any prospectus supplement and the documents we have incorporated by reference in this prospectus. We have not authorized anyone else to give you different information. If anyone provides you with different or inconsistent information, you should not rely on it. The distribution or possession of this prospectus in or from certain jurisdictions may be restricted by law. This prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted or where the person making the offer or sale is not qualified to do so, or to any person to whom it is not permitted to make such offer or sale.

You should not assume that the information in this prospectus or any prospectus supplement is accurate as of any date other than the date on the front of those documents, regardless of the time of delivery of such documents or of any sale of securities thereunder. Our business, financial condition, results of operations and prospects may have changed since those dates. We will disclose any material changes in our affairs in an amendment to this prospectus, a prospectus supplement, or a future filing with the SEC, incorporated by reference in this prospectus.

Table of Contents

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we have filed with the SEC using a shelf registration process. Under this shelf process, we may sell different types of securities described in this prospectus in one or more offerings. This prospectus provides you with a general description of SunCoke Energy, Inc. and the securities that are registered hereunder that may be offered by us. This prospectus does not contain all of the information that is in the registration statement. We omitted certain parts of the registration statement from this prospectus as permitted by the SEC. We refer you to the registration statement and its exhibits for additional information about us and the securities that may be sold under this prospectus.

Each time we sell any securities offered by this prospectus, we will provide a prospectus supplement that will contain specific information about the terms of that offering and the securities being offered. Any prospectus supplement also may add to, update or change information contained in this prospectus. To the extent information in this prospectus is inconsistent with the information contained in a prospectus supplement, you should rely on the information in the prospectus supplement.

The information in this prospectus is accurate as of its date. Additional information, including our financial statements and the notes thereto, is incorporated in this prospectus by reference to our reports filed with the SEC. Before you invest in our securities, you should carefully read this prospectus, including the information in the Risk Factors section, any prospectus supplement, the information incorporated by reference in this prospectus and any prospectus supplement (including the documents described under the heading Information We Incorporate by Reference in both this prospectus and any prospectus supplement), and any additional information you may need to make your investment decision.

WHERE YOU CAN FIND MORE INFORMATION

We have filed a registration statement with the SEC under the Securities Act of 1933, as amended (the *Securities Act*), that registers the securities to be offered subsequently by any prospectus supplement to this prospectus. The registration statement, including the attached exhibits, contains additional relevant information about us. In addition, we file annual, quarterly and other reports, proxy statements and other information with the SEC. You may read and copy any document we file at the SEC's public reference room at 100 F Street, NE, Room 1580, Washington, D.C. 20549. Please call the SEC at 1-800-732-0330 for further information on its public reference room. Our SEC filings are also available at the SEC's web site at <http://www.sec.gov> which contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC.

You also can inspect our reports and proxy statements, and obtain other information about us, at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005, or on our website at www.suncoke.com. Our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and our other filings with the SEC are available, free of charge, through our website, as soon as reasonably practicable after those reports or filings are electronically filed with or furnished to the SEC. Information on our website or any other website is not incorporated by reference into this prospectus and does not constitute a part of this prospectus unless specifically so designated and filed with the SEC.

INFORMATION WE INCORPORATE BY REFERENCE

The SEC allows us to incorporate by reference the information we have filed with the SEC. This means that we can disclose important information to you without actually including the specific information in this prospectus by referring you to those documents. The information incorporated by reference is deemed to be part of this prospectus,

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except for any information superseded by information contained expressly in this prospectus. You should not assume that the information in this prospectus is current as of any date other than the date on the cover page of this prospectus.

Table of Contents

We incorporate by reference in this prospectus the documents listed below and any subsequent filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended (the *Exchange Act*) (excluding information deemed to be furnished and not filed with the SEC), until all offerings under the registration statement of which this prospectus forms a part are completed or terminated:

Our Annual Report on Form 10-K (File No. 001-35243) for the year ended December 31, 2015, filed on February 18, 2016;

Our Quarterly Reports on Form 10-Q (File No. 001-35243) for the quarters ended March 31, 2016, filed on April 27, 2016; and June 30, 2016, filed on July 28, 2016;

Our Current Reports on Form 8-K (File No. 001-35243) filed on January 8, 2016, February 2, 2016, February 19, 2016, April 12, 2016 and May 6, 2016;

Our Definitive Proxy Statement on Schedule 14A filed with the SEC on March 23, 2016; and

The description of our common stock contained in our Registration Statement on Form 8-A (File No. 001-35243) as filed with the SEC on July 19, 2011 and any subsequent amendment thereto filed for the purpose of updating such description;

We are also incorporating by reference all additional documents we may file with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date on which the registration statement that includes this prospectus was initially filed with the SEC (including all such documents we may file with the SEC after the date of the initial registration statement and prior to the effectiveness of the registration statement) and until all offerings under this shelf registration statement are terminated.

You may request a copy of any document incorporated by reference in this prospectus and any exhibit specifically incorporated by reference in those documents, at no cost, by writing or telephoning us at the following address or phone number:

SunCoke Energy, Inc.

1011 Warrenville Road, Suite 600

Lisle, Illinois 60532

Attention: Investor Relations

Telephone: (630) 824-1907

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

document.

Table of Contents

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus and any prospectus supplement and the documents we incorporate by reference herein or therein may contain various forward-looking statements and information based upon management's beliefs and assumptions and on information currently available. Forward-looking statements include the information concerning our possible or assumed future results of operations, business strategies, financing plans, competitive position, potential growth opportunities, potential operating performance, the effects of competition and the effects of future legislation or regulations. Forward-looking statements include all statements that are not historical facts and may be identified by the use of forward-looking terminology such as the words believe, expect, plan, intend, anticipate, estimate, potential, continue, may, will, should or the negative of these terms or similar expressions.

These forward-looking statements reflect our intentions, plans, expectations, assumptions and beliefs about future events and are subject to other factors, many of which are outside our control. Important factors that could cause actual results to differ materially from the expectations expressed or implied in the forward-looking statements include known and unknown risks. These risks and uncertainties, many of which are beyond our control, include, but are not limited to, the risks set forth under Risk Factors and described in the documents incorporated by reference into this prospectus and any prospectus supplement. There also may be other risks that we are unable to predict at this time. Such risks and uncertainties include, without limitation:

changes in levels of production, production capacity, pricing and/or margins for coal and coke;

variation in availability, quality and supply of metallurgical coal used in the cokemaking process, including as a result of non-performance by our suppliers;

changes in the marketplace that may affect our coal logistics business, including the supply and demand for thermal and/or metallurgical coal;

changes in the marketplace that may affect our cokemaking business, including the supply and demand for our coke products, as well as increased imports of coke from foreign producers;

competition from alternative steelmaking and other technologies that have the potential to reduce or eliminate the use of coke;

our dependence on, relationships with, and other conditions affecting, our customers;

severe financial hardship or bankruptcy of one or more of our major customers, or the occurrence of a customer default or other event affecting our ability to collect payments from our customers;

volatility and cyclical downturns in the steel industry and in other industries in which our customers operate;

volatility, cyclical downturns and other change in the business climate and market for coal, affecting customers or potential customers for our coal logistics business;

our ability to enter into new, or renew existing, long-term agreements upon favorable terms for the sale of coke steam, or electric power, or for coal handling and logistics services;

our ability to enter into new, or renew existing, agreements upon favorable terms for coal logistics services;

our significant equity interest in SunCoke Energy Partners, L.P. (NYSE: SXCP);

our ability to identify acquisitions, execute them under favorable terms, and integrate them into our existing business operations;

our ability to consummate investments under favorable terms, including with respect to existing cokemaking facilities, which may utilize by-product technology, and integrate them into our existing businesses and have them perform at anticipated levels;

Table of Contents

our ability to develop, design, permit, construct, start up, or operate new cokemaking facilities in the U.S. or in foreign countries;

our ability to successfully implement domestic and/or our international growth strategies;

our ability to realize expected benefits from investments and acquisitions, including our investment in the Indian joint venture;

age of, and changes in the reliability, efficiency and capacity of the various equipment and operating facilities used in our cokemaking and/or coal logistics operations, and in the operations of our subsidiaries major customers, business partners and/or suppliers;

changes in the expected operating levels of our assets;

our ability to meet minimum volume requirements, coal-to-coke yield standards and coke quality standards in our coke sales agreements;

changes in the level of capital expenditures or operating expenses, including any changes in the level of environmental capital, operating or remediation expenditures;

our ability to service our outstanding indebtedness;

our ability to comply with the restrictions imposed by our financing arrangements;

our ability to comply with federal or state environmental statutes, rules or regulations

non-performance or force majeure by, or disputes with, or changes in contract terms with, major customers, suppliers, dealers, distributors or other business partners;

availability of skilled employees for our cokemaking, and/or coal logistics operations, and other workplace factors;

effects of railroad, barge, truck and other transportation performance and costs, including any transportation disruptions;

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effects of adverse events relating to the operation of our facilities and to the transportation and storage of hazardous materials (including equipment malfunction, explosions, fires, spills, and the effects of severe weather conditions);

effects of adverse events relating to the business or commercial operations of all customers or supplies

disruption in our information technology infrastructure and/or loss of our ability to securely store, maintain, or transmit data due to security breach by hackers, employee error or malfeasance, terrorist attack, power loss, telecommunications failure or other events;

our ability to enter into joint ventures and other similar arrangements under favorable terms;

our ability to consummate assets sales, other divestitures and strategic restructuring in a timely manner upon favorable terms, and/or realize the anticipated benefits from such actions;

changes in the availability and cost of equity and debt financing;

impact on our liquidity and ability to raise capital as a result of changes in the credit ratings assigned to our indebtedness;

changes in credit terms required by our suppliers;

risks related to labor relations and workplace safety;

proposed or final changes in existing, or new, statutes, regulations, rules, governmental policies and taxes, or their interpretations, including those relating to environmental matters and taxes;

Table of Contents

the existence of hazardous substances or other environmental contamination on property owned or used by us;

the availability of future permits authorizing the disposition of certain mining waste;

claims of noncompliance with any statutory and regulatory requirements;

proposed or final changes in accounting and/or tax methodologies, laws, regulations, rules, or policies, or their interpretations, including those affecting inventories, leases, pensions, or income;

public company costs;

our indebtedness and certain covenants in our debt documents;

our ability to secure new coal supply agreements or to renew existing coal supply agreements;

receipt of regulatory approvals and compliance with contractual obligations required in connection with our cokemaking and /or coal logistics operations;

changes in product specifications for the coke that we produce or the coals we mix, store and transport;

changes in insurance markets impacting cost, level and/or types of coverage available, and the financial ability of our insurers to meet their obligations;

changes in accounting rules or their interpretations, including the method of accounting for inventories, leases and/or pensions;

volatility in foreign currency exchange rates affecting the markets and geographic regions in which we conduct business;

changes in financial markets impacting pension expense and funding requirements;

the accuracy of our estimates of reclamation and other mine closure obligations;

inadequate protection of our intellectual property rights; and

effects of geologic conditions, weather, natural disasters and other inherent risks beyond our control.

The factors identified above are believed to be important factors, but not necessarily all of the important factors, that could cause actual results to differ materially from those expressed in any forward-looking statement made by us. Other factors described herein or incorporated by reference, or factors that are unknown or unpredictable, also could have a material adverse effect on our future results. Please read **Risk Factors** on page 3 of this prospectus and Item 1A: **Risk Factors** in our Annual Report on Form 10-K for the year ended December 31, 2015, as updated by annual, quarterly and other reports and documents we file with the SEC after the date of this prospectus and that are incorporated by reference herein.

You should not put undue reliance on any forward-looking statements. Although we believe that the assumptions underlying our forward-looking statements are reasonable as of the time they are made, any of these assumptions could be inaccurate and, therefore, we cannot assure you that the forward-looking statements included in this prospectus and any prospectus supplement will prove to be accurate. Historical data may not be reliable indicator of future results. Except as may be required by applicable law, we undertake no obligation to publicly update or advise of any change in any forward-looking statement, whether as a result of new information, future events or otherwise.

All forward-looking statements are expressly qualified in their entirety by the cautionary statements set forth in this section and elsewhere in this prospectus, any prospectus supplement and the documents incorporated by reference into this prospectus and any prospectus supplement, and speak only as of the date originally made.

Table of Contents

WHO WE ARE

*This summary highlights important features of this offering and the information included or incorporated by reference into this prospectus. This summary does not contain all of the information that you should consider before investing in our securities. You should read the entire prospectus carefully, including the risk factors described in our Annual Report on Form 10-K for the year ended December 31, 2015, which was filed with the SEC on February 18, 2016 and is incorporated by reference herein, as well as the risk factors and other information in any other document incorporated by reference into this prospectus. Unless the context otherwise requires, references to the **Company**, **we**, **our**, **us**, or like terms refer to SunCoke Energy, Inc. and our subsidiaries.*

We are an independent owner and operator of five cokemaking facilities in the United States, the operator of a cokemaking facility in Brazil, and owner of a joint venture interest in cokemaking operations in India. We also provide coal handling and blending services to third party customers as well as to our own cokemaking facilities.

On January 24, 2013, we completed the initial public offering of SunCoke Energy Partners, L.P., our master limited partnership (the **Partnership**) subsidiary. Our consolidated financial statements include the Partnership, which currently owns all of our coal handling and blending operations, and holds a 98 percent interest in each of our Gateway, Haverhill and Middletown cokemaking operations. We currently own the general partner of the Partnership (consisting of a 2.0 percent ownership interest and incentive distribution rights), as well as a 56.1 percent limited partner interest in the Partnership. The remaining 41.9 percent interest in the Partnership is held by public unitholders. We report our business results through the following four business segments:

Domestic Coke: consists of our Jewell, Indiana Harbor, Haverhill, Granite City and Middletown cokemaking and heat recovery operations located in Vansant, Virginia; East Chicago, Indiana; Franklin Furnace, Ohio; Granite City, Illinois; and Middletown, Ohio, respectively. Our domestic cokemaking facilities have the collective nameplate capacity to produce approximately 4.2 million tons of coke per year, and use a proprietary low-cost, heat-recovery cokemaking technology that is environmentally superior to the chemical by-product recovery technology currently used by most other coke producers. Each of these facilities produces coke and all facilities except Jewell and Indiana Harbor recover waste heat, which is converted to steam or electricity through a similar production process. Steam is sold to third party customers primarily pursuant to steam supply and purchase agreements. Electricity is sold into the regional power market or to AK Steel pursuant to energy sales agreements. Coke sales at each of these domestic cokemaking facilities are made pursuant to long-term take-or-pay agreements with ArcelorMittal, AK Steel, and U.S. Steel. Each of the coke sales agreements contains pass-through provisions for costs incurred in the cokemaking process, including coal procurement costs (subject to meeting contractual coal-to-coke yields), operating and maintenance expense, costs related to the transportation of coke to the customers, taxes (other than income taxes) and costs associated with changes in regulation, in addition to containing a fixed fee.

Brazil Coke: consists of our operations in Vitória, Brazil, where we operate a 1.7 million tons-per year cokemaking facility for a project company. The Brazil Coke segment earns income at this cokemaking facility through (1) licensing and operating fees payable to us under long-term contracts with the local project company that will run through at least 2022; and (2) an annual preferred dividend on our preferred stock investment from the project company guaranteed by the Brazilian subsidiary of ArcelorMittal.

Coal Logistics: consists of coal handling and blending service operations owned and operated through subsidiaries of the Partnership having the collective capacity to blend and transload more than 40 million tons of coal annually and has storage capacity of 3 million tons. These operations are strategically located to reach Gulf Coast, East Coast, Great Lakes and international ports, and are comprised Raven Energy LLC, which owns Convent Marine Terminal, one of the largest export terminals on the U.S. Gulf Coast, located in Convent, Louisiana; Kanawha River Terminals, located in

Table of Contents

Belle, West Virginia and Catlettsburg, Kentucky; SunCoke Lake Terminal, LLC, located in East Chicago, Indiana; and Ceredo Liquid Terminal LLC, located in Ceredo, West Virginia. This business provides coal handling and blending services to third party steel, electric utility and coal mining customers, as well as to our own cokemaking facilities.

Coal Mining: historically consisted of metallurgical coal mining operations near our Jewell cokemaking facility, with mines located in Virginia and West Virginia mined by contractors. On April 6, 2016, we successfully disposed of substantially all of our coal mining assets, mineral leases, real estate and a substantial portion of our mining reclamation obligations to Revelation Energy, LLC (*Revelation*). We retained certain coal mining assets and liabilities, primarily coal inventory, which continue to be included in the Coal Mining segment.

We also own a 49 percent interest in a cokemaking joint venture with VISA Steel, called VISA SunCoke. VISA SunCoke is comprised of a 440 thousand ton heat recovery cokemaking facility and the facility's associated steam generation units in Odisha, India. In 2015 we impaired our 49 percent investment in VISA SunCoke to zero, and consequently, beginning in the fourth quarter of 2015, we no longer include our share of VISA SunCoke in our financial results.

Our principal executive offices are located at 1011 Warrenville Road, Suite 600, Lisle, Illinois 60532, and our telephone number is (630) 824-1000. Our website is located at www.suncoke.com. We make our periodic reports and other information filed with or furnished to the SEC available, free of charge, through our website, as soon as reasonably practicable after those reports and other information are electronically filed with or furnished to the SEC. Information on our website or any other website is not incorporated by reference into this prospectus and does not constitute a part of this prospectus.

Our common stock is listed on the NYSE under the trading symbol SXC.

For additional information regarding our business, properties and financial condition, please refer to the documents cited in Information We Incorporate By Reference.

THE SUBSIDIARY GUARANTORS

One or more of our subsidiaries, whom we refer to as the *Subsidiary Guarantors* in this prospectus, may fully and unconditionally guarantee our payment obligations under any series of debt securities offered by this prospectus. The prospectus supplement relating to any such series will identify any Subsidiary Guarantors. Financial information concerning our Subsidiary Guarantors and any non-guarantor subsidiaries will be included in our consolidated financial statements filed as part of our periodic reports filed pursuant to 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 Information We Incorporate by Reference.

Table of Contents

RISK FACTORS

An investment in our securities involves a significant degree of risk. You should carefully consider the risk factors and all of the other information included in this prospectus, any prospectus supplement and the documents we have incorporated by reference into this prospectus and any prospectus supplement, including those in Item 1A Risk Factors in our Annual Report on Form 10-K for the fiscal year ended December 31, 2015, as updated by annual, quarterly and other reports and documents we file with the SEC after the date of this prospectus and that are incorporated by reference herein, in evaluating an investment in the securities. If any of these risks were actually to occur, our business, financial condition or results of operations could be materially and adversely affected. When we offer and sell any securities pursuant to a prospectus supplement, we may include additional risk factors relevant to such securities in the prospectus supplement.

Table of Contents

USE OF PROCEEDS

Except as otherwise provided in an applicable prospectus supplement, we will use the net proceeds we receive from the sale of the securities covered by this prospectus for general corporate purposes, which may include, among other things, repayment or refinancing of our outstanding indebtedness; funding capital expenditures, acquisitions and additions to working capital; investing in or lending money to our subsidiaries; and repurchasing or redeeming our securities. We may invest funds not required immediately for such purposes in short-term investment grade securities. The actual application of proceeds we receive from any particular offering of securities using this prospectus will be described in the applicable prospectus supplement relating to such offering.

Table of Contents**RATIO OF EARNINGS TO FIXED CHARGES**

The following are the ratios of earnings to fixed charges for the periods indicated:

	Six Months Ended		Years Ended December 31,				
	June 30,						
	2016	2015	2015	2014	2013	2012	2011
Ratio of earnings to fixed charges	N/A	N/A	N/A	N/A	1.6x	3.5x	3.3x

Insufficiency of earnings to cover fixed charges (in millions)

7.4	16.8	11.8	152.1	N/A	N/A	N/A
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We have computed the ratio of earnings to fixed charges by dividing earnings by fixed charges. For this purpose, earnings consists of income from continuing operations before income taxes, plus fixed charges and amortization of capitalized interest, minus capitalized interest and non-controlling interest in pre-tax income of subsidiaries that have not incurred fixed charges. Fixed charges include interest expensed, amortization of capitalized expenses related to indebtedness and estimates of interest within rental expenses.

The ratio of combined fixed charges and preference dividends for each of these periods is the same as the ratio of earnings to fixed charges, because we had no preferred securities outstanding during the periods.

Table of Contents

DESCRIPTION OF THE EQUITY SECURITIES

Our authorized stock consists of:

Three Hundred Million (300,000,000) shares of common stock, par value \$0.01 per share, of which 64,179,528 shares were outstanding on July 28, 2016; and

Fifty Million (50,000,000) shares of preferred stock, par value \$0.01 per share, none of which are outstanding on the date of this prospectus.

Common Stock

The following general description of certain rights of our common stock does not purport to be complete and is qualified in its entirety by reference to our amended and restated certificate of incorporation, our amended and restated bylaws and the applicable provisions of the Delaware General Corporation Law (*DGCL*). We will distribute a prospectus supplement with regard to each issue of common stock. Each prospectus supplement will describe the specific terms of the common stock offered through that prospectus supplement.

Dividend Rights. Subject to the prior dividend rights of holders of our preferred stock, holders of our common stock from time to time are entitled to receive dividends as and when declared by our board of directors out of legally available funds. The declaration and payment of future dividends to holders of our common stock will be at the discretion of our board of directors and will depend upon our earnings and financial condition, our capital requirements and those of our subsidiaries, regulatory conditions and considerations and other factors as our board of directors may deem relevant. No cash dividends will be paid with respect to our common stock for any period unless dividends for the same period, and any accumulated but unpaid dividends, with respect to any outstanding series of our preferred stock having preferential rights with respect to dividends have been paid.

Voting Rights. Each share of our common stock entitles the holder thereof to one vote per share on all matters submitted to a vote of the stockholders, including the election of directors. Under our amended and restated certificate of incorporation and amended and restated bylaws, our stockholders will not have cumulative voting rights. Because of this, the holders of a majority of the shares of common stock entitled to vote in any election of directors can elect all of the directors standing for election, if they should so choose.

Liquidation Rights. In the event of our liquidation, dissolution or winding up, whether voluntary or involuntary, the holders of common stock are entitled to receive, *pro rata*, our assets which are legally available for distribution, after payment of all debts and other liabilities and subject to the prior rights of any holders of preferred stock then outstanding.

Preemptive Rights. The holders of our common stock do not have any preemptive right to purchase our securities.

Conversion. Shares of our common stock are not convertible into shares of any other class of capital stock.

Miscellaneous. The issued and outstanding shares of our common stock are fully paid and non-assessable. Computershare Trust Company, N.A. serves as the registrar, transfer agent and cash dividend paying agent for our common stock.

Preferred Stock

Our board of directors is authorized without further stockholder action to provide for the issuance from time to time of preferred stock in one or more series and to determine the designations, powers, rights, preferences, qualifications, limitations and restrictions of the preferred stock of each such series, including, without limitation, voting rights (if any), dividend rights, dissolution rights, conversion rights, exchange rights and redemption rights and such other provisions as may be determined by the board of directors in accordance with Delaware law. The

Table of Contents

issuance of preferred stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other things, adversely affect the voting power of the holders of our common stock.

We will distribute a prospectus supplement with regard to each particular series of preferred stock. Each prospectus supplement will describe the designations, preferences, dividend rates, liquidation rights, voting rights, conversion rights, redemption rights and such other provisions determined by our board of directors to apply to the particular series of preferred stock, including:

the designation of the series, which may be by distinguishing number, letter or title;

the number of shares of the series, which our board of directors may thereafter (except where otherwise provided in the certificate of designation applicable to the series) increase or decrease (but not below the number of shares of the series then outstanding);

the amounts payable on, and the preferences, if any, of shares of the series in respect of dividends, and whether such dividends, if any, will be cumulative or noncumulative;

dates at which dividends, if any, will be payable;

the redemption rights and price or prices, if any, for shares of the series;

the terms and amount of any sinking fund provided for the purchase or redemption of shares of the series;

the amounts payable on, and the preferences, if any, of shares of the series in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company;

whether the shares of the series will be convertible into or exchangeable for shares of any other class or series, or any other security, of the Company or any other entity, and, if so, the specification of such other class or series or such other security, the conversion or exchange price or prices or rate or rates, any adjustments thereof, the date or dates at which such shares shall be convertible or exchangeable and all other terms and conditions upon which such conversion or exchange may be made;

restrictions on the issuance of shares of the same series or of any other class or series;

the voting rights, if any, of the holders of shares of the series; and

any other rights and restrictions applicable to that series of preferred stock.

The shares of preferred stock will, when issued against full payment of their purchase price, be fully paid and non-assessable. The following description summarizes certain general terms and provisions of the preferred stock, is not complete and is qualified in its entirety by reference to our amended and restated certificate of incorporation, our amended and restated bylaws and the applicable provisions of the Delaware General Corporation Law.

Ranking. All shares of the same series of preferred stock shall be identical in all respects, except that each share of a series issued at different times may differ as to the dates from which dividends on such shares shall be cumulative. All series of preferred stock shall rank equally with and be identical in all respects to each other series, unless otherwise determined by our board of directors. Our preferred stock shall rank prior to our common stock as to dividends and upon liquidation, dissolution or winding up.

Dividend Rights. If you purchase preferred stock being offered by use of this prospectus and an applicable prospectus supplement, you will be entitled to receive, when, as and if declared by our board of directors, dividends at the rates and on the dates set forth in the prospectus supplement. Dividend rates may be fixed, variable or both. The nature, amount, rates, timing and other details of dividend rights for a series of preferred stock will be described in the applicable prospectus supplement and will be payable in preference to, or in such relation to, the dividends payable on any other class or classes or series of our stock, as described in the applicable prospectus supplement.

Table of Contents

Voting Rights. The voting rights of preferred stock of any series being offered will be described in the applicable prospectus supplement.

Liquidation Rights. In the event that we liquidate, dissolve or wind-up our affairs, either voluntarily or involuntarily, holders of our preferred stock will be entitled to receive liquidating distributions in the amount set forth in the applicable prospectus supplement, plus accrued and unpaid dividends, if any, before we make any distribution of assets to the holders of our common stock or any other class of stock ranking junior to our preferred stock. If we fail to pay in full all amounts payable with respect to preferred stock being offered by us and any stock having the same rank as that series of preferred stock, the holders of the preferred stock and of that other stock will share in any distribution of assets in proportion to the full respective preferential amounts to which they are entitled. After the holders of each series of preferred stock and any stock having the same rank as the preferred stock are paid in full, they will have no right or claim to any of our remaining assets. For any series of preferred stock being offered by this prospectus and an applicable prospectus supplement, neither the sale of all or substantially all of our property or business nor a merger or consolidation by us with any other corporation will be considered a dissolution, liquidation or winding-up of our business or affairs.

Redemption. We may redeem all or any part of any series of our preferred stock at the times and redemption prices set forth in the resolutions adopted by our board of directors providing for the issue of that series. In the event of a partial redemption, the shares to be redeemed may be selected by lot or by such other equitable method as our board of directors in its discretion may determine. The terms, if any, on which shares of a series of preferred stock being offered may be redeemed will be described in the applicable prospectus supplement. The preferred stock of a series may be redeemed in such amount or amounts, and at such time or times, if any, as may be provided in respect of that particular series of preferred stock. Preferred stock may be redeemed by us only to the extent legally permissible. Unless we default in making payment of the redemption price plus accrued and unpaid dividends, upon redemption, the redeemed preferred shares shall cease to be outstanding and the holders thereof shall cease to be stockholders with respect to such shares and shall have no interest in or claim against us except the right to receive the redemption price plus accrued and unpaid dividends. Conversion rights, if any, of preferred shares called for redemption shall terminate at the close of business on the business day prior to the redemption date.

Conversion Rights. The applicable prospectus supplement will state the terms, if any, on which shares of a series of preferred stock being offered are convertible into shares of our common stock or another series of our preferred stock.

Annual Stockholders Meeting

Our amended and restated bylaws provide that annual stockholder meetings will be held at a date, time and place, if any, as exclusively selected by our board of directors. To the extent permitted under applicable law, we may conduct meetings by remote communications, including by webcast.

Voting

The affirmative vote of a majority of the shares of our common stock present, in person or by proxy, at any annual or special meeting of stockholders and entitled to vote will decide all matters voted on by stockholders, unless the question is one upon which, by express provision of law, under our amended and restated certificate of incorporation,

or under our amended and restated bylaws, a different vote is required, in which case such provision will control.

Anti-Takeover Effects of our Certificate of Incorporation and Bylaws

The provisions of our amended and restated certificate of incorporation and amended and restated bylaws and of the DGCL summarized below may have an anti-takeover effect and may delay, defer or prevent a tender offer or takeover attempt that you might consider in your best interest, including an attempt that might result in

Table of Contents

your receipt of a premium over the market price for your shares. These provisions are also designed, in part, to encourage persons seeking to acquire control of us to first negotiate with our board of directors, which could result in an improvement of their terms.

Special Meetings of Stockholders. Our amended and restated certificate of incorporation provides that, subject to the requirements of applicable law and any special rights of holders of preferred stock, a special meeting of stockholders may be called only by the Chairman of our board of directors or by a resolution adopted by a majority of the number of directors our Board of Directors would have if there were no vacancies.

Stockholder Action by Written Consent. Our amended and restated certificate of incorporation provides that any action that, under the DGCL, may be taken at any meeting of stockholders may be taken in lieu of a meeting by written consent of stockholders if the consent is signed by all of the persons who would be entitled to vote upon such action at a meeting, or by their duly authorized attorneys.

Removal of Directors. Our amended and restated bylaws provide that, subject to the rights of the holders of any series of preferred stock, directors may be removed with cause at any time upon the affirmative vote of holders of at least 80 percent of the voting power of all of the then- outstanding shares of voting stock, voting together as a single class.

Stockholder Advance Notice Procedure. Our amended and restated bylaws establish an advance notice procedure for stockholders to make nominations of candidates for election as directors or to bring other business before an annual meeting of our stockholders. The amended and restated bylaws provide that any stockholders wishing to nominate persons for election as directors at, or bring other business before, an annual meeting must deliver to our secretary a written notice of the stockholder's intention to do so. These provisions may have the effect of precluding the conduct of certain business at a meeting if the proper procedures are not followed. We expect that these provisions also may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer's own slate of directors or otherwise attempting to obtain control of our company.

Amended and Restated Certificate of Incorporation and Bylaws. Our amended and restated certificate of incorporation provides that it may be amended by both the affirmative vote of a majority of our board of directors or the affirmative vote of the holders of a majority of the outstanding shares of our common stock then entitled to vote at any annual or special meeting of stockholders; *provided, however,* that specified provisions of our amended and restated certificate of incorporation may not be amended, altered or repealed unless the amendment is approved by the affirmative vote of the holders of at least 80 percent of the voting power of all of the voting stock, voting together as a single class, including: the provisions governing the liability and indemnification of directors; maintenance of certain insurance coverage; and the requirement for supermajority approval of certain amendments to our amended and restated certificate of incorporation.

In addition, our amended and restated bylaws provide that our amended and restated bylaws may be amended, altered or repealed, or new bylaws may be adopted, by the affirmative vote of a majority of the board of directors, or by the affirmative vote at a meeting of the holders of at least a majority of the outstanding shares of our common stock;

provided, however, that the affirmative vote of the holders of at least 80 percent of the voting power of all of the voting stock, voting together as a single class is required to alter, amend, repeal, or adopt provisions relating to: the right to call a special meeting of stockholders; advance notice of nominations or other business to be properly brought before an annual meeting of stockholders; required vote and procedure for election of directors; setting of a record date for stockholder action by consent; the number, tenure and qualification of directors; the removal of directors and filling of vacancies on the Board of Directors; indemnification of directors and officers; and amendment of our amended and restated bylaws.

These provisions make it more difficult for any person to remove or amend any provisions in our amended and restated certificate of incorporation and amended and restated bylaws that may have an anti-takeover effect.

Table of Contents

In addition, Section 203 of the DGCL prohibits certain transactions between us and a stockholder who beneficially owns (together with any affiliates or associates) at least 15 percent of our outstanding voting shares. This provision could prevent certain business combinations between such an interested stockholder and us for a period of up to three years. In addition, our amended and restated bylaws divide our board of directors into three classes of directors serving staggered, three-year terms. Vacancies and newly-created directorships resulting from any increase in the size of our board may be filled by our board until the next election of the class for which such director shall have been chosen, even if the directors then on the board do not constitute a quorum. Members of our board of directors may only be removed from office by our stockholders for cause. These provisions could delay or prevent a change in control or removal of existing management.

Limitations on Liability

Our amended and restated certificate of incorporation contains provisions permitted under the DGCL relating to the liability of directors. These provisions eliminate a director's personal liability for monetary damages resulting from a breach of fiduciary duty, except in circumstances involving: a breach of the director's duty of loyalty; acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law; Section 174 of the DGCL, pertaining to unlawful dividends; or a transaction from which the director derives an improper personal benefit. The principal effect of the limitation on liability provision is that a stockholder will be unable to prosecute an action for monetary damages against a director unless the stockholder can demonstrate a basis for liability for which indemnification is not available under the DGCL. These provisions, however, should not limit or eliminate our rights or a stockholder's right to seek non-monetary relief, such as an injunction or rescission, in the event of a breach of fiduciary duty by directors. These provisions do not alter a director's liability under federal securities laws. The inclusion of this provision in our amended and restated certificate of incorporation may discourage or deter stockholders or management from bringing a lawsuit against directors for a breach of their fiduciary duties, even though such an action, if successful, might otherwise have benefited us and our stockholders.

Indemnification

Our amended and restated certificate of incorporation requires us to indemnify and advance expenses to our directors and officers to the fullest extent not prohibited by the DGCL and other applicable law, except in the case of a proceeding instituted by the director or officer without the approval of our board of directors. Our amended and restated certificate of incorporation provides that we are required to indemnify our directors and executive officers, to the fullest extent permitted by law, for all judgments, fines, settlements, legal fees and other expenses incurred in connection with pending or threatened legal proceedings because of the director's or officer's positions with us or another entity that the director or officer serves at our request, subject to various conditions, and to advance funds to our directors and officers to enable them to defend against such proceedings.

We have entered into an indemnification agreement with each of our directors. The indemnification agreements provide our directors with contractual rights to the indemnification and expense advancement rights provided under our amended and restated certificate of incorporation, as well as contractual rights to additional indemnification as provided in the indemnification agreement.

Exclusive Forum for Adjudication of Disputes

Our amended and restated bylaws provide that the Court of Chancery of the State of Delaware is the sole and exclusive forum for: any derivative action or proceeding brought on behalf of us; any action asserting a claim of breach of a fiduciary duty owed to us or our stockholders by any of our directors, officers or employees; any action asserting a claim against us, or any of our directors or officers, arising under the DGCL or (iv) any action asserting a

claim against us, or any of our directors or officers, that is governed by the internal affairs doctrine. We may consent in writing to alternative forums. By becoming a stockholder in our company, you will be deemed to have notice of, and have consented to, the provisions of our amended and restated certificate of incorporation related to choice of forum.

Table of Contents

Market Listing

The shares of our common stock are listed on the NYSE under the trading symbol SXC.

Transfer Agent and Registrar

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

Table of Contents

DESCRIPTION OF THE DEBT SECURITIES

The Debt Securities will be either our senior debt securities (*Senior Debt Securities*) or our subordinated debt securities (*Subordinated Debt Securities*). The Senior Debt Securities and the Subordinated Debt Securities will be issued under separate indentures among us, the Subsidiary Guarantors of such Debt Securities, if any, and a trustee to be determined (the *Trustee*). Senior Debt Securities will be issued under a *Senior Indenture* and Subordinated Debt Securities will be issued under a *Subordinated Indenture*. Together, the Senior Indenture and the Subordinated Indenture are called *Indentures*.

The Debt Securities may be issued from time to time in one or more series. The particular terms of each series that are offered by a prospectus supplement will be described in the prospectus supplement.

Unless the Debt Securities are guaranteed by our subsidiaries as described below, the rights of the Company and our creditors, including holders of the Debt Securities, to participate in the assets of any subsidiary upon the latter's liquidation or reorganization, will be subject to the prior claims of the subsidiary's creditors, except to the extent that we may ourselves be a creditor with recognized claims against such subsidiary.

We have summarized selected provisions of the Indentures below. The summary is not complete. The form of each Indenture has been filed with the SEC as an exhibit to the registration statement of which this prospectus is a part, and you should read the Indentures for provisions that may be important to you. Capitalized terms used in the summary have the meanings specified in the Indentures.

General

The Indentures provide that Debt Securities in separate series may be issued thereunder from time to time without limitation as to aggregate principal amount. We may specify a maximum aggregate principal amount for the Debt Securities of any series. We will determine the terms and conditions of the Debt Securities, including the maturity, principal and interest, but those terms must be consistent with the Indenture. The Debt Securities will be our unsecured obligations.

The Subordinated Debt Securities will be subordinated in right of payment to the prior payment in full of all of our Senior Debt (as defined) as described under *Subordination of Subordinated Debt Securities* and in the prospectus supplement applicable to any Subordinated Debt Securities. If the prospectus supplement so indicates, the Debt Securities will be convertible into our common stock.

If specified in the prospectus supplement respecting a particular series of Debt Securities, one or more Subsidiary Guarantors identified therein, will fully and unconditionally guarantee (the *Subsidiary Guarantee*) that series as described under *Subsidiary Guarantee* and in the prospectus supplement. Each Subsidiary Guarantee will be an unsecured obligation of the Subsidiary Guarantor. A Subsidiary Guarantee of Subordinated Debt Securities will be subordinated to the Senior Debt of the Subsidiary Guarantor on the same basis as the Subordinated Debt Securities are subordinated to our Senior Debt.

The applicable prospectus supplement will set forth the initial price or prices at which the Debt Securities to be issued will be offered for sale and will describe the following terms of such Debt Securities:

- (1) the title of the Debt Securities;

- (2) whether the Debt Securities are Senior Debt Securities or Subordinated Debt Securities and, if Subordinated Debt Securities, the related subordination terms;
- (3) whether any Subsidiary Guarantor will provide a Subsidiary Guarantee of the Debt Securities;
- (4) any limit on the aggregate principal amount of the Debt Securities;

Table of Contents

- (5) each date on which the principal of the Debt Securities will be payable;
- (6) the interest rate that the Debt Securities will bear and the interest payment dates for the Debt Securities;
- (7) each place where payments on the Debt Securities will be payable;
- (8) any terms upon which the Debt Securities may be redeemed, in whole or in part, at our option;
- (9) any sinking fund or other provisions that would obligate us to redeem or otherwise repurchase the Debt Securities;
- (10) the portion of the principal amount, if less than all, of the Debt Securities that will be payable upon declaration of acceleration of the Maturity of the Debt Securities;
- (11) whether the Debt Securities are defeasible;
- (12) any addition to or change in the Events of Default;
- (13) whether the Debt Securities are convertible into our common stock and, if so, the terms and conditions upon which conversion will be effected, including the initial conversion price or conversion rate and any adjustments thereto and the conversion period;
- (14) any addition to or change in the covenants in the Indenture applicable to the Debt Securities; and
- (15) any other terms of the Debt Securities not inconsistent with the provisions of the Indenture.

Debt Securities, including any Debt Securities that provide for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof (*Original Issue Discount Securities*), may be sold at a substantial discount below their principal amount. Special U.S. federal income tax considerations applicable to Debt Securities sold at an original issue discount may be described in the applicable prospectus supplement. In addition, special U.S. federal income tax or other considerations applicable to any Debt Securities that are denominated in a currency or currency unit other than U.S. dollars may be described in the applicable prospectus supplement.

Subordination of Subordinated Debt Securities

The indebtedness evidenced by the Subordinated Debt Securities will, to the extent set forth in the Subordinated Indenture with respect to each series of Subordinated Debt Securities, be subordinate in right of payment to the prior payment in full of all of our Senior Debt, including the Senior Debt Securities, and it may also be senior in right of payment to all of our Subordinated Debt. The prospectus supplement relating to any Subordinated Debt Securities will summarize the subordination provisions of the Subordinated Indenture applicable to that series including:

the applicability and effect of such provisions upon any payment or distribution respecting that series following any liquidation, dissolution or other winding-up, or any assignment for the benefit of creditors or other marshalling of assets or any bankruptcy, insolvency or similar proceedings;

the applicability and effect of such provisions in the event of specified defaults with respect to any Senior Debt, including the circumstances under which and the periods during which we will be prohibited from making payments on the Subordinated Debt Securities; and

the definition of Senior Debt applicable to the Subordinated Debt Securities of that series and, if the series is issued on a senior subordinated basis, the definition of Subordinated Debt applicable to that series.

Table of Contents

The prospectus supplement will also describe as of a recent date the approximate amount of Senior Debt to which the Subordinated Debt Securities of that series will be subordinated.

The failure to make any payment on any of the Subordinated Debt Securities by reason of the subordination provisions of the Subordinated Indenture described in the prospectus supplement will not be construed as preventing the occurrence of an Event of Default with respect to the Subordinated Debt Securities arising from any such failure to make payment.

The subordination provisions described above will not be applicable to payments in respect of the Subordinated Debt Securities from a defeasance trust established in connection with any legal defeasance or covenant defeasance of the Subordinated Debt Securities as described under Legal Defeasance and Covenant Defeasance.

Subsidiary Guarantee

If specified in the prospectus supplement, one or more Subsidiary Guarantors will guarantee the Debt Securities of a series. Unless otherwise indicated in the prospectus supplement, the following provisions will apply to the Subsidiary Guarantee of each Subsidiary Guarantor.

Subject to the limitations described below and in the prospectus supplement, the Subsidiary Guarantors will jointly and severally, fully and unconditionally guarantee the punctual payment when due, whether at Stated Maturity, by acceleration or otherwise, of all our payment obligations under the Indentures and the Debt Securities of a series, whether for principal of, premium, if any, or interest on the Debt Securities or otherwise (all such obligations guaranteed by a Subsidiary Guarantor being herein called the ***Guaranteed Obligations***). The Subsidiary Guarantors will also pay all expenses (including reasonable counsel fees and expenses) incurred by the applicable Trustee in enforcing any rights under a Subsidiary Guarantee with respect to a Subsidiary Guarantor.

In the case of Subordinated Debt Securities, a Subsidiary Guarantor's Subsidiary Guarantee will be subordinated in right of payment to the Senior Debt of such Subsidiary Guarantor on the same basis as the Subordinated Debt Securities are subordinated to our Senior Debt. No payment will be made by any Subsidiary Guarantor under its Subsidiary Guarantee during any period in which payments by us on the Subordinated Debt Securities are suspended by the subordination provisions of the Subordinated Indenture.

Each Subsidiary Guarantee will be limited in amount to an amount not to exceed the maximum amount that can be guaranteed by the Subsidiary Guarantor without rendering such Subsidiary Guarantee voidable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally.

Each Subsidiary Guarantee will be a continuing guarantee and will:

- (1) remain in full force and effect until either (a) payment in full of all the applicable Debt Securities (or such Debt Securities are otherwise satisfied and discharged in accordance with the provisions of the applicable Indenture) or (b) released as described in the following paragraph;
- (2) be binding upon each Subsidiary Guarantor; and
- (3) inure to the benefit of and be enforceable by the applicable Trustee, the Holders and their successors, transferees and assigns.

In the event that (a) a Subsidiary Guarantor ceases to be a Subsidiary, (b) either legal defeasance or covenant defeasance occurs with respect to the series or (c) all or substantially all of the assets or all of the Capital Stock of such Subsidiary Guarantor is sold, including by way of sale, merger, consolidation or otherwise, such Subsidiary Guarantor will be released and discharged of its obligations under its Subsidiary Guarantee and

Table of Contents

the Indenture without any further action required on the part of the Trustee or any Holder, and no other Person acquiring or owning the assets or Capital Stock of such Subsidiary Guarantor will be required to enter into a Subsidiary Guarantee. In addition, the prospectus supplement may specify additional circumstances under which a Subsidiary Guarantor can be released from its Subsidiary Guarantee.

Form, Exchange and Transfer

The Debt Securities of each series will be issuable only in fully registered form, without coupons, and, unless otherwise specified in the applicable prospectus supplement, only in denominations of \$1,000 and integral multiples thereof.

At the option of the Holder, subject to the terms of the applicable Indenture and the limitations applicable to Global Securities, Debt Securities of each series will be exchangeable for other Debt Securities of the same series of any authorized denomination and of a like tenor and aggregate principal amount.

Subject to the terms of the applicable Indenture and the limitations applicable to Global Securities, Debt Securities may be presented for exchange as provided above or for registration of transfer (duly endorsed or with the form of transfer endorsed thereon duly executed) at the office of the Security Registrar or at the office of any transfer agent designated by us for such purpose. No service charge will be made for any registration of transfer or exchange of Debt Securities, but we may require payment of a sum sufficient to cover any tax or other governmental charge payable in that connection. Such transfer or exchange will be effected upon the Security Registrar or such transfer agent, as the case may be, being satisfied with the documents of title and identity of the Person making the request. The Security Registrar and any other transfer agent initially designated by us for any Debt Securities will be named in the applicable prospectus supplement. We may at any time designate additional transfer agents or rescind the designation of any transfer agent or approve a change in the office through which any transfer agent acts, except that we will be required to maintain a transfer agent in each Place of Payment for the Debt Securities of each series.

If the Debt Securities of any series (or of any series and specified tenor) are to be redeemed in part, we will not be required to (1) issue, register the transfer of or exchange any Debt Security 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 mailing of a notice of redemption of any such Debt Security that may be selected for redemption and ending at the close of business on the day of such mailing or (2) register the transfer of or exchange any Debt Security so selected for redemption, in whole or in part, except the unredeemed portion of any such Debt Security being redeemed in part.

Global Securities

Some or all of the Debt Securities of any series may be represented, in whole or in part, by one or more Global Securities that will have an aggregate principal amount equal to that of the Debt Securities they represent. Each Global Security will be registered in the name of a Depository or its nominee identified in the applicable prospectus supplement, will be deposited with such Depository or nominee or its custodian and will bear a legend regarding the restrictions on exchanges and registration of transfer thereof referred to below and any such other matters as may be provided for pursuant to the applicable Indenture.

Notwithstanding any provision of the Indentures or any Debt Security described in this prospectus, no Global Security may be exchanged in whole or in part for Debt Securities registered, and no transfer of a Global Security in whole or in part may be registered, in the name of any Person other than the Depository for such Global Security or any nominee of such Depository unless:

(1) the Depositary has notified us that it is unwilling or unable to continue as Depositary for such Global Security or has ceased to be qualified to act as such as required by the applicable Indenture, and in either case we fail to appoint a successor Depositary within 90 days;

Table of Contents

(2) an Event of Default with respect to the Debt Securities represented by such Global Security has occurred and is continuing and the Trustee has received a written request from the Depository to issue certificated Debt Securities;

(3) subject to the rules of the Depository, we shall have elected to terminate the book-entry system through the Depository; or

(4) other circumstances exist, in addition to or in lieu of those described above, as may be described in the applicable prospectus supplement.

All certificated Debt Securities issued in exchange for a Global Security or any portion thereof will be registered in such names as the Depository may direct.

As long as the Depository, or its nominee, is the registered holder of a Global Security, the Depository or such nominee, as the case may be, will be considered the sole owner and Holder of such Global Security and the Debt Securities that it represents for all purposes under the Debt Securities and the applicable Indenture. Except in the limited circumstances referred to above, owners of beneficial interests in a Global Security will not be entitled to have such Global Security or any Debt Securities that it represents registered in their names, will not receive or be entitled to receive physical delivery of certificated Debt Securities in exchange for those interests and will not be considered to be the owners or Holders of such Global Security or any Debt Securities that it represents for any purpose under the Debt Securities or the applicable Indenture. All payments on a Global Security will be made to the Depository or its nominee, as the case may be, as the Holder of the security. The laws of some jurisdictions may require that some purchasers of Debt Securities take physical delivery of such Debt Securities in certificated form. These laws may impair the ability to transfer beneficial interests in a Global Security.

Ownership of beneficial interests in a Global Security will be limited to institutions that have accounts with the Depository or its nominee (*participants*) and to Persons that may hold beneficial interests through participants. In connection with the issuance of any Global Security, the Depository will credit, on its book-entry registration and transfer system, the respective principal amounts of Debt Securities represented by the Global Security to the accounts of its participants. Ownership of beneficial interests in a Global Security will be shown only on, and the transfer of those ownership interests will be effected only through, records maintained by the Depository (with respect to participants' interests) or any such participant (with respect to interests of Persons held by such participants on their behalf). Payments, transfers, exchanges and other matters relating to beneficial interests in a Global Security may be subject to various policies and procedures adopted by the Depository from time to time. None of us, the Subsidiary Guarantors, the Trustees or the agents of us, the Subsidiary Guarantors or the Trustees will have any responsibility or liability for any aspect of the Depository's or any participant's records relating to, or for payments made on account of, beneficial interests in a Global Security, or for maintaining, supervising or reviewing any records relating to such beneficial interests.

Payment and Paying Agents

Unless otherwise indicated in the applicable prospectus supplement, payment of interest on a Debt Security on any Interest Payment Date will be made to the Person in whose name such Debt Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest.

Unless otherwise indicated in the applicable prospectus supplement, principal of and any premium and interest on the Debt Securities of a particular series will be payable at the office of such Paying Agent or Paying Agents as we may designate for such purpose from time to time, except that at our option payment of any interest on Debt Securities in certificated form may be made by check mailed to the address of the Person entitled thereto as such address appears in

the Security Register. Unless otherwise indicated in the applicable prospectus supplement, the corporate trust office of the Trustee under the Senior Indenture in The City of New York will be

Table of Contents

designated as sole Paying Agent for payments with respect to Senior Debt Securities of each series, and the corporate trust office of the Trustee under the Subordinated Indenture in The City of New York will be designated as the sole Paying Agent for payment with respect to Subordinated Debt Securities of each series. Any other Paying Agents initially designated by us for the Debt Securities of a particular series will be named in the applicable prospectus supplement. We may at any time designate additional Paying Agents or rescind the designation of any Paying Agent or approve a change in the office through which any Paying Agent acts, except that we will be required to maintain a Paying Agent in each Place of Payment for the Debt Securities of a particular series.

All money paid by us to a Paying Agent for the payment of the principal of or any premium or interest on any Debt Security which remains unclaimed at the end of two years after such principal, premium or interest has become due and payable will be repaid to us, and the Holder of such Debt Security thereafter may look only to us for payment.

Consolidation, Merger and Sale of Assets

Unless otherwise specified in the prospectus supplement, we may not consolidate with or merge into, or transfer, lease or otherwise dispose of all or substantially all of our assets to, any Person (a *successor Person*), and may not permit any Person to consolidate with or merge into us, unless:

- (1) the successor Person (if not us) is a corporation, partnership, trust or other entity organized and validly existing under the laws of any domestic jurisdiction and assumes our obligations on the Debt Securities and under the Indentures;
- (2) immediately before and after giving pro forma effect to the transaction, no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, has occurred and is continuing; and
- (3) several other conditions, including any additional conditions with respect to any particular Debt Securities specified in the applicable prospectus supplement, are met.

The successor Person (if not us) will be substituted for us under the applicable Indenture with the same effect as if it had been an original party to such Indenture, and, except in the case of a lease, we will be relieved from any further obligations under such Indenture and the Debt Securities.

Events of Default

Unless otherwise specified in the prospectus supplement, each of the following will constitute an Event of Default under the applicable Indenture with respect to Debt Securities of any series:

- (1) failure to pay principal of or any premium on any Debt Security of that series when due, whether or not, in the case of Subordinated Debt Securities, such payment is prohibited by the subordination provisions of the Subordinated Indenture;
- (2) failure to pay any interest on any Debt Securities of that series when due, continued for 30 days, whether or not, in the case of Subordinated Debt Securities, such payment is prohibited by the subordination provisions of the Subordinated Indenture;
- (3) failure to deposit any sinking fund payment, when due, in respect of any Debt Security of that series, whether or not, in the case of Subordinated Debt Securities, such deposit is prohibited by the subordination provisions of the Subordinated Indenture;

Table of Contents

- (4) failure to perform or comply with the provisions described under Consolidation, Merger and Sale of Assets ;
- (5) failure to perform any of our other covenants in such Indenture (other than a covenant included in such Indenture solely for the benefit of a series other than that series), continued for 60 days after written notice has been given by the applicable Trustee, or the Holders of at least 25% in principal amount of the Outstanding Debt Securities of that series, as provided in such Indenture;
- (6) any Debt of ourself, any Significant Subsidiary or, if a Subsidiary Guarantor has guaranteed the series, such Subsidiary Guarantor, is not paid within any applicable grace period after final maturity or is accelerated by its holders because of a default and the total amount of such Debt unpaid or accelerated exceeds \$50.0 million;
- (7) any judgment or decree for the payment of money in excess of \$50.0 million is entered against us, any Significant Subsidiary or, if a Subsidiary Guarantor has guaranteed the series, such Subsidiary Guarantor, remains outstanding for a period of 60 consecutive days following entry of such judgment and is not discharged, waived or stayed;
- (8) certain events of bankruptcy, insolvency or reorganization affecting us, any Significant Subsidiary or, if a Subsidiary Guarantor has guaranteed the series, such Subsidiary Guarantor; and
- (9) if any Subsidiary Guarantor has guaranteed such series, the Subsidiary Guarantee of any such Subsidiary Guarantor is held by a final non-appealable order or judgment of a court of competent jurisdiction to be unenforceable or invalid or ceases for any reason to be in full force and effect (other than in accordance with the terms of the applicable Indenture) or any Subsidiary Guarantor or any Person acting on behalf of any Subsidiary Guarantor denies or disaffirms such Subsidiary Guarantor's obligations under its Subsidiary Guarantee (other than by reason of a release of such Subsidiary Guarantor from its Subsidiary Guarantee in accordance with the terms of the applicable Indenture).

If an Event of Default (other than an Event of Default with respect to us described in clause (8) above) with respect to the Debt Securities of any series at the time Outstanding occurs and is continuing, either the applicable Trustee or the Holders of at least 25% in principal amount of the Outstanding Debt Securities of that series by notice as provided in the Indenture may declare the principal amount of the Debt Securities of that series (or, in the case of any Debt Security that is an Original Issue Discount Debt Security, such portion of the principal amount of such Debt Security as may be specified in the terms of such Debt Security) to be due and payable immediately, together with any accrued and unpaid interest thereon. If an Event of Default with respect to us described in clause (8) above with respect to the Debt Securities of any series at the time Outstanding occurs, the principal amount of all the Debt Securities of that series (or, in the case of any such Original Issue Discount Security, such specified amount) will automatically, and without any action by the applicable Trustee or any Holder, become immediately due and payable, together with any accrued and unpaid interest thereon. After any such acceleration and its consequences, but before a judgment or decree based on acceleration, the Holders of a majority in principal amount of the Outstanding Debt Securities of that series may, under certain circumstances, rescind and annul such acceleration if all Events of Default with respect to that series, other than the non-payment of accelerated principal (or other specified amount), have been cured or waived as provided in the applicable Indenture. For information as to waiver of defaults, please read Modification and Waiver below.

Subject to the provisions of the Indentures relating to the duties of the Trustees in case an Event of Default has occurred and is continuing, no Trustee will be under any obligation to exercise any of its rights or powers under the applicable Indenture at the request or direction of any of the Holders, unless such Holders have offered to such Trustee reasonable security or indemnity. Subject to such provisions for the indemnification of the Trustees, the Holders of a majority in principal amount of the Outstanding Debt Securities of any series will 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 Debt Securities of that series.

Table of Contents

No Holder of a Debt Security of any series will have any right to institute any proceeding with respect to the applicable Indenture, or for the appointment of a receiver or a trustee, or for any other remedy thereunder, unless:

- (1) such Holder has previously given to the Trustee under the applicable Indenture written notice of a continuing Event of Default with respect to the Debt Securities of that series;
- (2) the Holders of at least 25% in principal amount of the Outstanding Debt Securities of that series have made written request, and such Holder or Holders have offered reasonable security or indemnity, to the Trustee to institute such proceeding as trustee; and
- (3) the Trustee has failed to institute such proceeding, and has not received from the Holders of a majority in principal amount of the Outstanding Debt Securities of that series a direction inconsistent with such request, within 60 days after such notice, request and offer.

However, such limitations will not apply to a suit instituted by a Holder of a Debt Security for the enforcement of payment of the principal of or any premium or interest on such Debt Security on or after the applicable due date specified in such Debt Security or, if applicable, to convert such Debt Security.

We will be required to furnish to each Trustee annually a statement by certain of our officers as to whether or not we, to their knowledge, are in default in the performance or observance of any of the terms, provisions and conditions of the applicable Indenture and, if so, specifying all such known defaults.

Modification and Waiver

We may modify or amend an Indenture without the consent of any holders of the Debt Securities in certain circumstances, including:

- (1) to evidence the succession under the Indenture of another Person to us or any Subsidiary Guarantor and to provide for its assumption of our or such Subsidiary Guarantor's obligations to holders of Debt Securities;
- (2) to make any changes that would add any additional covenants of us or the Subsidiary Guarantors for the benefit of the holders of Debt Securities or that do not adversely affect the rights under the Indenture of the Holders of Debt Securities in any material respect;
- (3) to add any additional Events of Default;
- (4) to provide for uncertificated notes in addition to or in place of certificated notes;
- (5) to secure the Debt Securities;
- (6) to establish the form or terms of any series of Debt Securities;
- (7) to evidence and provide for the acceptance of appointment under the Indenture of a successor Trustee;
- (8) to cure any ambiguity, defect or inconsistency;
- (9) to add Subsidiary Guarantors; or

(10) in the case of any Subordinated Debt Security, to make any change in the subordination provisions that limits or terminates the benefits applicable to any Holder of Senior Debt.

Table of Contents

Other modifications and amendments of an Indenture may be made by us, the Subsidiary Guarantors, if applicable, and the applicable Trustee with the consent of the Holders of a majority in principal amount of the Outstanding Debt Securities of each series affected by such modification or amendment; provided, however, that no such modification or amendment may, without the consent of the Holder of each Outstanding Debt Security affected thereby:

- (1) change the Stated Maturity of the principal of, or any installment of principal of or interest on, any Debt Security;
- (2) reduce the principal amount of, or any premium or interest on, any Debt Security;
- (3) reduce the amount of principal of an Original Issue Discount Security or any other Debt Security payable upon acceleration of the Maturity thereof;
- (4) change the place or currency of payment of principal of, or any premium or interest on, any Debt Security;
- (5) impair the right to institute suit for the enforcement of any payment due on or any conversion right with respect to any Debt Security;
- (6) modify the subordination provisions in the case of Subordinated Debt Securities, or modify any conversion provisions, in either case in a manner adverse to the Holders of the Subordinated Debt Securities;
- (7) except as provided in the applicable Indenture, release the Subsidiary Guarantee of a Subsidiary Guarantor;
- (8) reduce the percentage in principal amount of Outstanding Debt Securities of any series, the consent of whose Holders is required for modification or amendment of the Indenture;
- (9) reduce the percentage in principal amount of Outstanding Debt Securities of any series necessary for waiver of compliance with certain provisions of the Indenture or for waiver of certain defaults;
- (10) modify such provisions with respect to modification, amendment or waiver; or
- (11) following the making of an offer to purchase Debt Securities from any Holder that has been made pursuant to a covenant in such Indenture, modify such covenant in a manner adverse to such Holder.

The Holders of a majority in principal amount of the Outstanding Debt Securities of any series may waive compliance by us with certain restrictive provisions of the applicable Indenture. The Holders of a majority in principal amount of the Outstanding Debt Securities of any series may waive any past default under the applicable Indenture, except a default in the payment of principal, premium or interest and certain covenants and provisions of the Indenture which cannot be amended without the consent of the Holder of each Outstanding Debt Security of such series.

Each of the Indentures provides that in determining whether the Holders of the requisite principal amount of the Outstanding Debt Securities have given or taken any direction, notice, consent, waiver or other action under such Indenture as of any date:

- (1) the principal amount of an Original Issue Discount Security that will be deemed to be Outstanding will be the amount of the principal that would be due and payable as of such date upon acceleration of maturity to such date;

Table of Contents

(2) if, as of such date, the principal amount payable at the Stated Maturity of a Debt Security is not determinable (for example, because it is based on an index), the principal amount of such Debt Security deemed to be Outstanding as of such date will be an amount determined in the manner prescribed for such Debt Security;

(3) the principal amount of a Debt Security denominated in one or more foreign currencies or currency units that will be deemed to be Outstanding will be the United States-dollar equivalent, determined as of such date in the manner prescribed for such Debt Security, of the principal amount of such Debt Security (or, in the case of a Debt Security described in clause (1) or (2) above, of the amount described in such clause); and

(4) certain Debt Securities, including those owned by us, any Subsidiary Guarantor or any of our other Affiliates, will not be deemed to be Outstanding.

Except in certain limited circumstances, we will be entitled to set any day as a record date for the purpose of determining the Holders of Outstanding Debt Securities of any series entitled to give or take any direction, notice, consent, waiver or other action under the applicable Indenture, in the manner and subject to the limitations provided in the Indenture. In certain limited circumstances, the Trustee will be entitled to set a record date for action by Holders. If a record date is set for any action to be taken by Holders of a particular series, only Persons who are Holders of Outstanding Debt Securities of that series on the record date may take such action. To be effective, such action must be taken by Holders of the requisite principal amount of such Debt Securities within a specified period following the record date. For any particular record date, this period will be 180 days or such other period as may be specified by us (or the Trustee, if it set the record date), and may be shortened or lengthened (but not beyond 180 days) from time to time.

Satisfaction and Discharge

Each Indenture will be discharged and will cease to be of further effect as to all outstanding Debt Securities of any series issued thereunder, when:

either:

(1) (a) all outstanding Debt Securities of that series that have been authenticated (except lost, stolen or destroyed Debt Securities that have been replaced or paid and Debt Securities for whose payment money has theretofore been deposited in trust and thereafter repaid to us) have been delivered to the Trustee for cancellation; or

(b) all outstanding Debt Securities of that series that have been not delivered to the Trustee for cancellation have become due and payable or will become due and payable at their Stated Maturity within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee and in any case we have irrevocably deposited with the Trustee as trust funds money in an amount sufficient, without consideration of any reinvestment of interest, to pay the entire indebtedness of such Debt Securities not delivered to the Trustee for cancellation, for principal, premium, if any, and accrued interest to the Stated Maturity or redemption date;

(2) we have paid or caused to be paid all other sums payable by us under the Indenture with respect to the Debt Securities of that series; and

(3) we have delivered an Officers' Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge of the Indenture with respect to the Debt Securities of that series have been satisfied.

Legal Defeasance and Covenant Defeasance

To the extent indicated in the applicable prospectus supplement, we may elect, at our option at any time, to have our obligations discharged under provisions relating to defeasance and discharge of indebtedness, which we call *legal defeasance*, or relating to defeasance of certain restrictive covenants applied to the Debt Securities of any series, or to any specified part of a series, which we call *covenant defeasance*.

Table of Contents

Legal Defeasance

The Indentures will provide that, upon our exercise of our option (if any) to have the legal defeasance provisions applied to any series of Debt Securities, we and, if applicable, each Subsidiary Guarantor will be discharged from all our obligations, and, if such Debt Securities are Subordinated Debt Securities, the provisions of the Subordinated Indenture relating to subordination will cease to be effective, with respect to such Debt Securities (except for certain obligations to convert, exchange or register the transfer of Debt Securities, to replace stolen, lost or mutilated Debt Securities, to maintain paying agencies and to hold moneys for payment in trust) upon the deposit in trust for the benefit of the Holders of such Debt Securities of money or U.S. Government Obligations, or both, which, through the payment of principal and interest in respect thereof in accordance with their terms, will provide money in an amount sufficient (in the opinion of a nationally recognized firm of independent public accountants) to pay the principal of and any premium and interest on such Debt Securities on the respective Stated Maturities in accordance with the terms of the applicable Indenture and such Debt Securities. Such defeasance or discharge may occur only if, among other things:

- (1) we have delivered to the applicable Trustee an Opinion of Counsel to the effect that we have received from, or there has been published by, the United States Internal Revenue Service a ruling, or there has been a change in tax law, in either case to the effect that Holders of such Debt Securities will not recognize gain or loss for federal income tax purposes as a result of such deposit and legal defeasance 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 legal defeasance were not to occur;
- (2) no Event of Default or event that with the passing of time or the giving of notice, or both, shall constitute an Event of Default shall have occurred and be continuing at the time of such deposit or, with respect to any Event of Default described in clause (8) under Events of Default, at any time until 121 days after such deposit;
- (3) such deposit and legal defeasance will not result in a breach or violation of, or constitute a default under, any agreement or instrument (other than the applicable Indenture) to which we are a party or by which we are bound;
- (4) in the case of Subordinated Debt Securities, at the time of such deposit, no default in the payment of all or a portion of principal of (or premium, if any) or interest on any Senior Debt shall have occurred and be continuing, no event of default shall have resulted in the acceleration of any Senior Debt and no other event of default with respect to any Senior Debt shall have occurred and be continuing permitting after notice or the lapse of time, or both, the acceleration thereof; and
- (5) we have delivered to the Trustee an Opinion of Counsel to the effect that such deposit shall not cause the Trustee or the trust so created to be subject to the Investment Company Act of 1940, as amended.

Covenant Defeasance

The Indentures will provide that, upon our exercise of our option (if any) to have the covenant defeasance provisions applied to any Debt Securities, we may fail to comply with certain restrictive covenants (but not with respect to conversion, if applicable), including those that may be described in the applicable prospectus supplement, and the occurrence of certain Events of Default, which are described above in clause (5) (with respect to such restrictive covenants) and clauses (6), (7) and (9) under Events of Default and any that may be described in the applicable prospectus supplement, will not be deemed to either be or result in an Event of Default and, if such Debt Securities are Subordinated Debt Securities, the provisions of the Subordinated Indenture relating to subordination will cease to be effective, in each case with respect to such Debt Securities. In order to exercise such option, we must deposit, in trust

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for the benefit of the Holders of such Debt Securities, money or U.S. Government Obligations, or both, which, through the payment of principal and interest in respect

Table of Contents

thereof in accordance with their terms, will provide money in an amount sufficient (in the opinion of a nationally recognized firm of independent public accountants) to pay the principal of and any premium and interest on such Debt Securities on the respective Stated Maturities in accordance with the terms of the applicable Indenture and such Debt Securities. Such covenant defeasance may occur only if we have delivered to the applicable Trustee an Opinion of Counsel to the effect that Holders of such Debt Securities will not recognize gain or loss for federal income tax purposes as a result of such deposit and covenant defeasance 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, and the requirements set forth in clauses (2), (3), (4) and (5) under Legal Defeasance above are satisfied. If we exercise this option with respect to any series of Debt Securities and such Debt Securities were declared due and payable because of the occurrence of any Event of Default, the amount of money and U.S. Government Obligations so deposited in trust would be sufficient to pay amounts due on such Debt Securities at the time of their respective Stated Maturities but may not be sufficient to pay amounts due on such Debt Securities upon any acceleration resulting from such Event of Default. In such case, we would remain liable for such payments.

If we exercise either our legal defeasance or covenant defeasance option, any Subsidiary Guarantee will terminate.

Notices

Notices to Holders of Debt Securities will be given by mail to the addresses of such Holders as they may appear in the Security Register.

Title

We, the Subsidiary Guarantors, the Trustees and any agent of us, the Subsidiary Guarantors or a Trustee may treat the Person in whose name a Debt Security is registered as the absolute owner of the Debt Security (whether or not such Debt Security may be overdue) for the purpose of making payment and for all other purposes.

Governing Law

The Indentures and the Debt Securities will be governed by, and construed in accordance with, the law of the State of New York.

The Trustee

We will enter into the Indentures with a Trustee that is qualified to act under the Trust Indenture Act of 1939, as amended (the *Trust Indenture Act*), and with any other Trustees chosen by us and appointed in a supplemental indenture for a particular series of Debt Securities. We may maintain a banking relationship in the ordinary course of business with our Trustee and one or more of its affiliates.

Resignation or Removal of Trustee

If the Trustee has or acquires a conflicting interest within the meaning of the Trust Indenture Act, the Trustee must either eliminate its conflicting interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and the applicable Indenture. Any resignation will require the appointment of a successor Trustee under the applicable Indenture in accordance with the terms and conditions of such Indenture.

The Trustee may resign or be removed by us with respect to one or more series of Debt Securities and a successor Trustee may be appointed to act with respect to any such series. The holders of a majority in aggregate principal

amount of the Debt Securities of any series may remove the Trustee with respect to the Debt Securities of such series.

Table of Contents

Limitations on Trustee if It Is Our Creditor

Each Indenture will contain certain limitations on the right of the Trustee, in the event that it becomes our creditor, to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise.

Certificates and Opinions to Be Furnished to Trustee

Each Indenture will provide that, in addition to other certificates or opinions that may be specifically required by other provisions of an Indenture, every application by us for action by the Trustee must be accompanied by an Officers Certificate and an Opinion of Counsel stating that, in the opinion of the signers, all conditions precedent to such action have been complied with by us.

Table of Contents

DESCRIPTION OF THE WARRANTS

We may issue warrants for the purchase of our debt securities, common stock, or preferred stock. The following description summarizes certain general terms and provisions of the warrants, is not complete and is qualified in its entirety by reference to the warrant agreement under which the warrants are issued.

Warrants may be issued independently as separate securities, or together with any of our debt or equity securities. Each series of warrants will be issued under a separate warrant agreement to be entered into between us and a bank or trust company, as warrant agent. The warrant agent will act solely as our agent in connection with the warrants and will not assume any obligation or relationship of agency or trust for or with any registered holders of warrants or beneficial owners of warrants. Unless otherwise specified in a prospectus supplement, the warrants will be immediately exercisable upon issuance and may be traded separately from any series of debt or equity securities with which they are issued.

General

We will distribute a prospectus supplement with regard to each issue of warrants. The prospectus supplement will set forth the specific terms of any warrants offered thereby, including, where applicable:

in the case of warrants to purchase debt securities, the designation, aggregate principal amount, currencies, denominations, and other terms of the series of debt securities purchasable upon exercise of warrants and the price at which such debt securities may be purchased upon such exercise;

in the case of warrants to purchase preferred stock, the designation, number of shares, stated value and terms (including liquidation, dividend, conversion and voting rights) of the series of preferred stock purchasable upon exercise of warrants and the price at which such number of shares of preferred stock may be purchased upon such exercise;

in the case of warrants to purchase common stock, the number of shares of common stock purchasable upon exercise of warrants and the price at which such number of shares of common stock may be purchased upon such exercise;

the date on which the right to exercise warrants shall commence and the date upon which such right shall expire;

any provision adjusting the securities that may be purchased on exercise of the warrants, and the exercise price of the warrants, to prevent dilution or otherwise;

the place or places where warrants can be presented for exercise or for registration of transfer or exchange;

information with respect to book-entry procedures, if any;

any United States federal income tax consequences applicable to the warrants; and

any other material terms of the warrants, including terms, procedures and limitations relating to the exchange and exercise of the warrants.

Table of Contents

DESCRIPTION OF RIGHTS

We may issue rights for the purchase of shares of our common stock or shares of our preferred stock. Each series of rights will be issued under a separate rights agreement which we will enter into with a bank or trust company, as rights agent, all as set forth in the applicable prospectus supplement. The rights agent will act solely as our agent in connection with the certificates relating to 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. We will file the rights agreement and the rights certificates relating to each series of rights with the SEC, and incorporate them by reference as an exhibit to the registration statement of which this prospectus forms a part on or before the time we issue a series of rights.

The applicable prospectus supplement will describe the terms of any rights we issue, including as applicable:

the date for determining the persons entitled to participate in the rights distribution;

the aggregate number or amount of underlying securities purchasable upon exercise of the rights and the exercise price;

the aggregate number of rights being issued;

the date, if any, on and after which the rights may be transferable separately;

the date on which the right to exercise the rights commences and the date on which the right expires;

the number of rights outstanding, if any;

a discussion of any material or special U.S. federal income tax considerations applicable to the rights; and

any other terms of the rights, including the terms, procedures and limitations relating to the distribution, exchange and exercise of the rights.

Rights will be exercisable for U.S. dollars only and will be in registered form only.

Table of Contents

DESCRIPTION OF UNITS

As specified in the applicable prospectus supplement, we may issue units pursuant to a unit agreement and each unit will represent an interest in two or more other securities, which may or may not be separable from one another. In addition, the prospectus supplement relating to units will describe the terms of any units we issue, including as applicable:

the designation and terms of the units and the securities included in the units;

any provision for the issuance, payment, settlement, transfer or exchange of the units;

the date, if any, on and after which the units may be transferable separately;

whether we will apply to have the units traded on a securities exchange or securities quotation system;

any material United States federal income tax consequences; and

how, for United States federal income tax purposes, the purchase price paid for the units is to be allocated among the component securities.

Table of Contents

PLAN OF DISTRIBUTION

General

We may sell the securities offered by this prospectus from time to time (1) through underwriters or dealers, (2) directly to one or more purchasers, including to our affiliates and stockholders in a rights offering, (3) through agents to the public or to investors, (4) in at the market offerings, within the meaning of Rule 415(a)(4) under the Securities Act, to or through a market maker or into an existing trading market, on an exchange or otherwise, or (5) through a combination of any of these methods.

We, or agents designated by us, may directly solicit, from time to time, offers to purchase the securities. Any such agent may be deemed to be an underwriter as that term is defined in the Securities Act. We will name the agents involved in the offer or sale of the securities and describe any commissions payable by us to these agents in the prospectus supplement. Unless otherwise indicated in the prospectus supplement, these agents will be acting on a best efforts basis for the period of their appointment. The agents may be entitled under agreements they may enter into with us to indemnification by us against specified civil liabilities, including liabilities under the Securities Act. The agents also may be our customers or may engage in transactions with or perform services for us in the ordinary course of business.

The applicable prospectus supplement will include the following information to the extent applicable:

the terms of the offering;

the names of any underwriters or agents;

the name or names of any managing underwriter or underwriters;

the purchase price or initial public offering price of the securities;

the net proceeds from the sale of the securities;

any delayed delivery arrangements;

any underwriting discounts, commissions and other items constituting underwriters' compensation;

any discounts or concessions allowed or re-allowed or paid to dealers; and

any commissions paid to agents.

The distribution of the securities described in this prospectus may be effected from time to time in one or more transactions either:

at a fixed price or prices, which may be changed;

at market prices prevailing at the time of sale;

at prices relating to such prevailing market prices; or

at negotiated prices.

Sale through Underwriters or Dealers

If underwriters are used in the sale of any 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. Unless we inform you otherwise in the prospectus supplement, the obligations of the underwriters to purchase the securities will be subject to certain conditions, and the underwriters will be obligated to purchase all the offered securities if they

Table of Contents

purchase any of them. The underwriters may change from time to time any initial public offering price and any discounts or concessions allowed or re-allowed or paid to dealers.

If we utilize an underwriter in the sale of the securities being offered by this prospectus, we will execute an underwriting agreement with the underwriter at the time of sale and we will provide the name of any underwriter in the prospectus supplement that the underwriter will use to make resales of the securities to the public. In connection with the sale of the securities, we or the purchasers of securities for whom the underwriter may act as agent may compensate the underwriter in the form of underwriting discounts or commissions. The underwriter may sell the securities to or through dealers, and the underwriter may compensate those dealers in the form of discounts, concessions or commissions.

The securities may or may not be listed on a national securities exchange. To facilitate the offering of securities, certain persons participating in the offering may engage in transactions that stabilize, maintain or otherwise affect the price of the securities. During and after an offering through underwriters, the underwriters may purchase and sell the securities in the open market. These