

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-K

(Mark One)

Annual report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

for the fiscal year ended September 26, 2015

or

Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Commission File Number 001-35672



**BERRY PLASTICS GROUP, INC.**  
(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction  
of incorporation or organization)  
101 Oakley Street  
Evansville, Indiana  
(Address of principal executive offices)

20-5234618  
(IRS employer  
identification number)

47710  
(Zip code)

Registrant's telephone number, including area code: (812) 424-2904

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, \$0.01 par value per share	New York Stock Exchange

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or such shorter period that the registrant was required to file such reports), and (2) have been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, accelerated filer, or non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):  
Large accelerated filer  Accelerated filer  Non-accelerated filer  Small reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Securities Exchange Act of 1934).  
Yes  No

The aggregate market value of the common stock of the registrant held by non-affiliates was approximately \$4.2 billion as of March 27, 2015, the last business day of the registrant's most recently completed second fiscal quarter. This amount excludes shares of the registrant's common stock held by current executive officers, directors, and affiliates whose ownership did not exceed 5% as of such date. The aggregate market value was computed using the \$35.43 closing price per share for such stock on the New York Stock Exchange on such date.

Class	Outstanding at November 23, 2015
Common Stock, \$.01 par value per share	120.0 million shares

DOCUMENTS INCORPORATED BY REFERENCE

Portions of Berry Plastics Group, Inc.'s Proxy Statement for its 2016 Annual Meeting of Stockholders are incorporated by reference into Part III of this Annual Report on Form 10-K.

## CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS

This Form 10-K includes “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, as amended, with respect to our financial condition, results of operations and business and our expectations or beliefs concerning future events. The forward-looking statements include, in particular, statements about our plans, strategies and prospects under the heading “Management’s Discussion and Analysis of Financial Condition and Results of Operations”. You can identify forward-looking statements because they contain words such as “believes,” “expects,” “may,” “will,” “should,” “would,” “could,” “seeks,” “approximately,” “intends,” “plans,” “estimates,” “outlook,” “anticipates” or “looking forward” or similar expressions that relate to our strategy, plans, intentions, or our financial condition, our recent acquisition of AVINTIV Inc. (“Avintiv”) and integration thereof. All statements we make relating to our estimated and projected earnings, margins, costs, expenditures, cash flows, growth rates and financial results or to our expectations regarding future industry trends are forward-looking statements. In addition, we, through our senior management, from time to time make forward-looking public statements concerning our expected future operations and performance and other developments. These forward-looking statements are subject to risks and uncertainties that may change at any time, and, therefore, our actual results may differ materially from those that we expected. We derive many of our forward-looking statements from our operating budgets and forecasts, which are based upon many detailed assumptions. While we believe that our assumptions are reasonable, we caution that it is very difficult to predict the impact of known factors, and it is impossible for us to anticipate all factors that could affect our actual results. All forward-looking statements are based upon information available to us on the date of this Form 10-K.

All forward-looking information and subsequent written and oral forward-looking statements attributable to us, or to persons acting on our behalf, are expressly qualified in their entirety by the cautionary statements. Some of the factors that we believe could affect our results include:

- risks associated with our substantial indebtedness and debt service;
- changes in prices and availability of resin and other raw materials and our ability to pass on changes in raw material prices on a timely basis;
- performance of our business and future operating results;
- risks related to our acquisition strategy and integration of acquired businesses, including the diversion of management time on acquisition-related issues and our ability to promptly and effectively integrate our businesses with those of acquisitions and achieve the synergies and value creation contemplated;
- reliance on unpatented know-how and trade secrets;
- increases in the cost of compliance with laws and regulations, including environmental, safety, production and product laws and regulations;
- risks related to disruptions in the overall economy and the financial markets that may adversely impact our business;
- catastrophic loss of one of our key manufacturing facilities, natural disasters, and other unplanned business interruptions;
- risks of competition, including foreign competition, in our existing and future markets;
- the other factors discussed in the section titled “Risk Factors.”

We caution readers that the foregoing list of important factors may not contain all of the material factors that are important to you. In addition, in light of these risks and uncertainties, the matters referred to in the forward-looking statements contained in this Form 10-K may not in fact occur. Accordingly, investors should not place undue reliance on those statements. We undertake no obligation to publicly update or revise any forward-looking statement as a result of new information, future events or otherwise, except as otherwise required by law.

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## **Item 1. BUSINESS**

*(In millions of dollars, except as otherwise noted)*

### **General**

Berry Plastics Group, Inc. (“Berry,” “We,” or the “Company”) is a leading provider of value-added plastic consumer packaging and engineered materials with a track record of delivering high-quality customized solutions to our customers. Representative examples of our products include specialty closures, prescription vials, specialty films, adhesives, corrosion protection materials, as well as drink cups, thin-wall containers, and bottles. We sell our products predominantly into stable, consumer-oriented end-markets, such as healthcare, personal care, and food and beverage.

We believe that we have created one of the largest product libraries in our industry, allowing us to be a comprehensive solution provider to our customers. Our customers consist of a diverse mix of leading global, national, mid-sized regional and local specialty businesses. The size and scope of our customer network allows us to introduce new products we develop or acquire to a vast audience that is familiar with our brand. In fiscal 2015, no single customer represented more than approximately 2% of net sales and our top ten customers represented 16% of net sales. We believe our manufacturing processes and our ability to leverage our scale to reduce expenses on items, such as raw materials, position us as a low-cost manufacturer relative to our competitors.

Through November 2015 our business was organized into four operating divisions: Rigid Open Top, Rigid Closed Top, (which together make up our Rigid Packaging business), Engineered Materials, and Flexible Packaging. Additional financial information about our business segments is provided in “Management's Discussion and Analysis of Financial Condition and Results of Operations” and the “Notes to Consolidated Financial Statements,” which are included elsewhere in this Form 10-K.

In November 2015, the Company reorganized into three operating segments: Health, Hygiene and Specialties, Consumer Packaging, and Engineered Materials. The Health, Hygiene and Specialties segment will include the recently acquired Avintiv business and personal care films and international business that historically reported in our Flexible Packaging segment. The Consumer Packaging segment will consist of our historical Rigid Open Top segment, Rigid Closed Top segment, the food and consumer films business that historically reported in our Flexible Packaging segment, and the custom shrink films business that was historically reported in our Engineered Materials segment. The Engineered Material segment will include the old Engineered Material segment, excluding the custom shrink films business, and the converter films business that was historically reported in our Flexible Packaging segment. Beginning with our results for the first quarter of fiscal 2016, we will report results based on our new operating segment structure.

### **Recent Acquisitions**

#### *Rexam Healthcare Containers and Closures*

In June 2014, the Company acquired Rexam's Healthcare Containers and Closures business (“C&C”) for a purchase price of \$133 million, net of cash acquired. The C&C business produces bottles, closures, and specialty products for pharmaceutical and over-the-counter healthcare applications. The C&C acquisition has been accounted for under the purchase method of accounting, and accordingly, the purchase price has been allocated to the identifiable assets and liabilities based on their fair values at the acquisition date. The acquired assets and assumed liabilities consisted of working capital of \$32 million, property and equipment of \$85 million, non-current deferred tax asset of \$3 million, intangible assets of \$9 million, goodwill of \$7 million, and other long-term liabilities of \$3 million.

#### *AVINTIV Inc.*

In October 2015, the Company acquired 100% of the capital stock of Avintiv for a purchase price of approximately \$2.3 billion which is preliminary and subject to adjustment. Avintiv is one of the world's leading developers, producers, and marketers of nonwoven specialty materials used in hygiene, infection prevention, personal care, and high-performance solutions. With 23 locations in 14 countries, an employee base of over 4,500 people, and the broadest range of process technologies in the industry, Avintiv's strategically located manufacturing facilities position it as a global supplier to many of the same leading consumer and industrial product manufacturers that Berry supplies and utilize similar key raw materials as Berry's existing business. To finance the purchase, the Company issued \$400 million aggregate principal amount of 6.0% second priority senior secured notes due 2022 and entered into an incremental assumption agreement to increase the commitments under the Company's existing term loan credit agreement by \$2.1 billion due 2022.

### **Recent Developments**

#### *Revolving Line of Credit*

In May 2015, the Company amended the credit agreement relating to its existing \$650 million secured revolving credit facility to extend the maturity date of the revolving credit facility from June 2016 to May 2020 and to reduce interest margins and certain commitment fees.

#### *5<sup>1</sup>/<sub>8</sub>% Second Priority Senior Secured Notes*

In June 2015, the Company issued \$700 million of 5<sup>1</sup>/<sub>8</sub>% second priority senior secured notes due July 2023. Interest on the 5<sup>1</sup>/<sub>8</sub>% second priority senior secured notes is due semi-annually on January 15 and July 15. Proceeds from the issuance and existing liquidity were used to satisfy and discharge all of the outstanding 9<sup>3</sup>/<sub>4</sub>% second priority senior secured notes. The Company recognized a \$94 million loss on extinguishment of debt, including \$83 million of early tender and redemption costs and an \$11 million write-off of deferred financing fees.

In September 2015, the Company entered into an interest rate swap transaction to protect \$1 billion of outstanding variable rate term loan debt from future interest rate volatility. The agreement swapped the greater of a three-month variable LIBOR contract or 1.00% for a fixed annual rate of 1.7185%, with an effective date in December 2015 and expiration in June 2019.

## **Product Overview**

### *Rigid Packaging*

**Our Rigid Packaging business primarily includes the following product groups:**

*Containers.* We manufacture a collection of nationally branded container products which range from four ounces to five gallons and are offered in various styles with accompanying lids, bails and handles, some of which we produce, as well as a wide array of decorating options.

*Foodservice.* We believe we are one of the largest providers of large size thermoformed polypropylene (“PP”) and injection-molded plastic drink cups in the United States. We manufacture plastic cups that range in size from 12 to 64 ounces primarily for quick service and family dining restaurants, convenience stores, stadiums and retail stores.

*Closures and Overcaps.* We believe we are a leading producer of closures and overcaps across several of our product lines, including continuous-thread and child-resistant closures, as well as aerosol overcaps. We sell our closures into numerous end markets, including household chemical, healthcare, food and beverage, and personal care.

*Bottles and Prescription Containers.* Our bottle and prescription container businesses target markets similar to our closure business. We believe we are a leader in various food and beverage, vitamin and nutritional markets, as well as the prescription container market.

*Tubes.* We offer a complete line of extruded and laminate tubes in a wide variety of sizes. We believe we are one of the largest suppliers of extruded plastic squeeze tubes in the United States. The majority of our tubes are sold in the personal care market. We also sell our tubes into the pharmaceutical and household chemical markets.

### *Engineered Materials*

*Corrosion Protection Products.* We believe we are a leading global producer of anti-corrosion products to infrastructure, rehabilitation and new pipeline projects throughout the world. These products are used in oil, gas, and water supply and construction applications. Our customers primarily include contractors managing discrete construction projects around the world as well as distributors and applicators.

*Tape Products.* We believe we are a leading North American manufacturer of cloth and foil tape products. Other tape products include high-quality, high-performance liners of splicing and laminating tapes, flame-retardant tapes, vinyl-coated and carton sealing tapes, electrical, double-faced cloth, masking, mounting, OEM, and medical and specialty tapes. Tape products are sold primarily through distributors and directly to end users for industrial, HVAC, automotive, construction, and retail market applications.

*Retail Bags.* We sell a diversified portfolio of polyethylene based film products to end users in the retail markets. Our products include drop cloths and retail trash bags. These products are sold primarily through wholesale outlets, hardware stores and home centers, paint stores, and mass merchandisers.

*PVC Films.* We believe we are a world leader in polyvinyl chloride ("PVC") films offering a broad array of PVC meat film. Our products are used primarily to wrap fresh meats, poultry, and produce for supermarket applications. In addition, we offer a line of boxed products for food service and retail sales. We service many of the leading supermarket chains, club stores, and wholesalers.

*Institutional Can Liners.* We sell trash-can liners and food bags for offices, restaurants, schools, hospitals, hotels, municipalities, and manufacturing facilities.

*Stretch and Shrink Films.* We manufacture both hand and machine-wrap stretch films and custom shrink films, which are used to prepare products and packages for storage and shipping. We sell stretch and shrink film products to a diverse mix of end users.

#### *Flexible Packaging*

Our Flexible Packaging division consists of high barrier, multilayer film products as well as finished flexible packages such as pouches and includes various immaterial international operations. The Flexible Packaging division primarily includes the following product groups:

*Personal Care Films.* We believe we are a major supplier of component and packaging films used for personal care hygiene applications predominantly sold in North America and Latin America. The end use applications include disposable baby diapers, feminine care, adult incontinence, hospital, and tissue and towel products.

*Food and Consumer Films.* We are a converter of printed bags, pouches, and rollstock. We believe we are a leading supplier of printed film products for the fresh bakery, tortilla, and frozen vegetable markets. We also manufacture barrier films used for cereal, cookie, cracker and dry mix packages that are sold directly to food manufactures.

*Converter Films.* We manufacture specialty coated and laminated products for a wide variety of packaging applications as well as a wide range of highly specialized, made-to-order film products. The key end markets and applications for our products include healthcare, industrial and military pouches, roll wrap, multi-wall bags, and fiber drum packaging.

*International.* We manufacture a wide range of products predominately serving the global food, healthcare, and personal care markets.

#### **Marketing, Sales, and Competition**

We reach our large and diversified customer base through our regional direct field sales force of dedicated professionals and the strategic use of distributors. Our regional field sales, production and support staff meet with customers to understand their needs and improve our product offerings and services. Our scale enables us to dedicate certain sales and marketing efforts to particular products or customers, when applicable, which enables us to develop expertise that we believe is valued by our customers. In addition, because we serve common customers across segments, we have the ability to efficiently utilize our sales and marketing resources to minimize costs.

The major markets in which the Company sells its products are highly competitive. Areas of competition include service, innovation, quality, and price. This competition is significant as to both the size and the number of competing firms. Competitors include but are not limited to Silgan, Aptar, Reynolds, AEP, Intertape, 3M, Clopay, Tredegar, and Bemis.

#### **Research, Product Development and Design**

We believe our technology base and research and development support are among the best in the industries we serve. Many of our customers work in partnership with our technical representatives to develop new, more competitive products. Our design professionals work directly with our customers to develop new styles and use computer-generated graphics to enable our customers to visualize the finished product. Expenditures for research and development activities were \$33 million, \$32 million, and \$28 million in fiscal 2015, 2014 and 2013, respectively.

#### **Raw Materials**

Our primary raw material is plastic resin. In addition, we use butyl rubber, tackifying resins, chemicals and adhesives, paper and packaging materials, linerboard, rayon, and foil in various manufacturing processes. These raw materials are available from multiple sources and in general we purchase from a variety of global suppliers. In certain regions we may source specific raw materials from a limited number of suppliers or on a sole-source basis. While temporary shortages of raw materials can occur, we expect to continue to successfully manage raw material supplies without significant supply interruptions.

## Employees

As of the end of the 2015 fiscal year, we employed approximately 16,000 employees with approximately 12% of those employees being covered by collective bargaining agreements. There are four agreements, representing approximately 7% of employees, due for renegotiation in fiscal year 2016. The remaining agreements expire after fiscal 2016. Our relations with employees under collective bargaining agreements remain satisfactory and there have been no significant work stoppages or other labor disputes during the past three years.

*Avintiv acquisition* - Avintiv has approximately 4,500 employees worldwide. Approximately 52% of these employees are represented by labor unions or works councils that have entered into separate collective bargaining agreements with Avintiv. All of these collective bargaining agreements will expire within one year. We believe these employee relations are satisfactory.

## Patents, Trademarks and Other Intellectual Property

We customarily seek patent and trademark protection for our products and brands while seeking to protect our proprietary know-how. While important to our business in the aggregate, sales of any one individually patented product are not considered material to any specific segment or the consolidated results.

## Environmental Matters and Government Regulation

Our past and present operations and our past and present ownership and operations of real property are subject to extensive and changing federal, state, local, and foreign environmental laws and regulations pertaining to the discharge of materials into the environment, handling and disposition of waste, and cleanup of contaminated soil and ground water, or otherwise relating to the protection of the environment. We believe that we are in substantial compliance with applicable environmental laws and regulations. However, we cannot predict with any certainty that we will not in the future incur liability with respect to noncompliance with environmental laws and regulations, contamination of sites formerly or currently owned or operated by us (including contamination caused by prior owners and operators of such sites) or the off-site disposal of regulated materials, which could be material.

We may from time to time be required to conduct remediation of releases of regulated materials at our owned or operated facilities. None of our pending remediation projects are expected to result in material costs. Like any manufacturer, we are also subject to the possibility that we may receive notices of potential liability in connection with materials that were sent to third-party recycling, treatment, and/or disposal facilities under the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), and comparable state statutes, which impose liability for investigation and remediation of contamination without regard to fault or the legality of the conduct that contributed to the contamination, and for damages to natural resources. Liability under CERCLA is retroactive, and, under certain circumstances, liability for the entire cost of a cleanup can be imposed on any responsible party. We are not aware that any such notices are currently pending which are expected to result in material costs.

The Food and Drug Administration ("FDA") regulates the material content of direct-contact food and drug packages, including certain packages we manufacture pursuant to the Federal Food, Drug and Cosmetics Act. Certain of our products are also regulated by the Consumer Product Safety Commission ("CPSC") pursuant to various federal laws, including the Consumer Product Safety Act and the Poison Prevention Packaging Act. Both the FDA and the CPSC can require the manufacturer of defective products to repurchase or recall such products and may also impose fines or penalties on the manufacturer. Similar laws exist in some states, cities and other countries in which we sell our products. In addition, laws exist in certain states restricting the sale of packaging with certain levels of heavy metals, imposing fines and penalties for noncompliance. Although we believe that we use FDA approved resins and pigments in our products that directly contact food and drug products, and we believe our products are in material compliance with all applicable requirements, we remain subject to the risk that our products could be found not to be in compliance with such requirements.

The plastics industry, including us, is subject to existing and potential federal, state, local and foreign legislation designed to reduce solid waste by requiring, among other things, plastics to be degradable in landfills, minimum levels of recycled content, various recycling requirements, disposal fees, and limits on the use of plastic products. In particular, certain states have enacted legislation requiring products packaged in plastic containers to comply with standards intended to encourage recycling and increased use of recycled materials. In addition, various consumer and special interest groups have lobbied from time to time for the implementation of these and other similar measures. We believe that the legislation promulgated to date and such initiatives to date have not had a material adverse effect on us. There can be no assurance that any such future legislative or regulatory efforts or future initiatives would not have a material adverse effect on us.

## Available Information

We make available, free of charge, our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments, if any, to those reports through our internet website as soon as practicable after they have been electronically filed with the SEC. Our internet address is [www.berryplastics.com](http://www.berryplastics.com). The information contained on our website is not being incorporated herein.

## Item 1A. RISK FACTORS

### **Our substantial indebtedness could affect our ability to meet our obligations and may otherwise restrict our activities.**

We have a significant amount of indebtedness, which requires significant interest payments. Our inability to generate sufficient cash flow to satisfy our debt obligations, or to refinance our obligations on commercially reasonable terms, would have a material adverse effect on our business, financial condition and results of operations.

Our substantial indebtedness could have important consequences. For example, it could:

- limit our ability to borrow money for our working capital, capital expenditures, debt service requirements or other corporate purposes;
- increase our vulnerability to general adverse economic and industry conditions; and
- limit our ability to respond to business opportunities, including growing our business through acquisitions.

In addition, the credit agreements and indentures governing our current indebtedness contain, and any future debt instruments would likely contain, financial and other restrictive covenants, which will impose significant operating and financial restrictions on us, including restrictions on our ability to, among other things, incur or guarantee additional debt; pay dividends and make other restricted payments; create or incur certain liens; make certain investments; engage in sales of assets and subsidiary stock; enter into transactions with affiliates; transfer all or substantially all of our assets or enter into merger or consolidation transactions; and make capital expenditures.

As a result of these covenants, we could be limited in the manner in which we conduct our business, and we may be unable to engage in favorable business activities or finance future operations or capital needs. Furthermore, a failure to comply with these covenants could result in an event of default, which, if not cured or waived, could have a material adverse effect on our business, financial condition, and results of operations.

### **Increases in resin prices or a shortage of available resin could harm our financial condition and results of operations.**

To produce our products, we use large quantities of plastic resins. Plastic resins are subject to price fluctuations, including those arising from supply shortages and changes in the prices of natural gas, crude oil and other petrochemical intermediates from which resins are produced. Over the past several years, we have at times experienced rapidly increasing resin prices. Historically, we have been able to successfully manage the impact of higher raw material costs by increasing our selling prices. However, raw material inflation could materially and adversely affect our revenue and profitability in the short term as we attempt to pass through price increases to our customers and in the long term as our customers could seek alternative solutions.

We may not be able to arrange for other sources of resin in the event of an industry-wide general shortage of resins used by us, or a shortage or discontinuation of certain types of grades of resin purchased from one or more of our suppliers. Any such shortage may materially negatively impact our competitive position versus companies that are able to better or more cheaply source resin.

**We may not be able to compete successfully and our customers may not continue to purchase our products.**

We compete with multiple companies in each of our product lines on the basis of a number of considerations, including price, service, quality, product characteristics and the ability to supply products to customers in a timely manner. Our products also compete with metal, glass, paper and other packaging materials as well as plastic packaging materials made through different manufacturing processes. Some of these competitive products are not subject to the impact of changes in resin prices, which may have a significant and negative impact on our competitive position versus substitute products. Our competitors may have financial and other resources that are substantially greater than ours and may be better able than us to withstand higher costs. Competition could result in our products losing market share or our having to reduce our prices, either of which could have a material adverse effect on our business, financial condition and results of operations. In addition, since we do not have long-term arrangements with many of our customers, these competitive factors could cause our customers to shift suppliers and/or packaging material quickly. Our success depends, in part, on our ability to respond timely to customer and market changes.

**We may pursue and execute acquisitions, which could adversely affect our business.**

As part of our growth strategy, we consider acquisitions that either complement or expand our existing business and create economic value. We cannot assure you that we will be able to consummate any such transactions or that any future acquisitions will be consummated at acceptable prices and terms. Acquired businesses may not achieve the levels of revenue, profit, productivity or otherwise perform as we expect. Acquisitions involve special risks, including the potential assumption of unanticipated liabilities and contingencies as well as difficulties in integrating acquired businesses creating substantial costs, delays or other problems that could adversely affect our business, financial condition and results of operations. Furthermore, we may not realize all of the synergies we expect to achieve from our current strategic initiatives due to a variety of risks. If we are unable to achieve the synergies that we expect to achieve from our strategic initiatives, it could adversely affect our business, financial condition and results of operations.

**Because a significant number of Avintiv employees are represented by labor unions or trade councils and work under collective bargaining agreements, any employee slowdown or strikes or the failure to renew collective bargaining agreements could disrupt our business following the Avintiv acquisition.**

As of September 26, 2015, approximately 52% of Avintiv's employees are represented by labor unions or trade councils and worked under collective bargaining agreements. We may not be able to maintain constructive relationships with these labor unions or trade councils. We may not be able to successfully negotiate new collective bargaining agreements on satisfactory terms in the future. The loss of a substantial number of these employees or a prolonged labor dispute could disrupt our business following the Avintiv acquisition. Any such disruption could reduce our revenues, increase our costs and result in significant losses following the Avintiv acquisition.

**Current and future environmental and other governmental requirements could adversely affect our financial condition and our ability to conduct our business.**

While we have not been required historically to make significant capital expenditures in order to comply with applicable environmental laws and regulations, we cannot predict with any certainty our future capital expenditure requirements because of continually changing compliance standards and environmental technology. Furthermore, violations or contaminated sites that we do not know about (including contamination caused by prior owners and operators of such sites or newly discovered information) could result in additional compliance or remediation costs or other liabilities, which could be material. We may also assume significant environmental liabilities in connection with acquisitions. In addition, federal, state, local, and foreign governments could enact laws or regulations concerning environmental matters that increase the cost of producing, or otherwise adversely affect the demand for, plastic products. Legislation that would prohibit, tax or restrict the sale or use of certain types of plastic and other containers, and would require diversion of solid waste such as packaging materials from disposal in landfills, has been or may be introduced in the U.S. Congress, state legislatures, and other legislative bodies. Although we believe that any such laws promulgated to date have not had a material adverse effect on us, there can be no assurance that future legislation or regulation would not have a material adverse effect on us. Furthermore, a decline in consumer preference for plastic products due to environmental considerations could have a negative effect on our business.

Both the FDA and the CPSC can require the manufacturer of defective products to repurchase or recall these products and may also impose fines or penalties on the manufacturer. Similar laws exist in some states, cities and other countries in which we sell products. In addition, laws exist in certain states restricting the sale of packaging with certain levels of heavy metals and imposing fines and penalties for noncompliance. Although we believe we use FDA-approved resins and pigments in our products that directly contact food and drug products and we believe our products are in material compliance with all applicable requirements, we remain subject to the risk that our products could be found not to be in compliance with these and other requirements. A recall of any of our products or any fines and penalties imposed in connection with noncompliance could have a materially adverse effect on us. See "Business—Environmental Matters and Government Regulation."

**We may not be able to successfully manage the Avintiv integration and it may disrupt our current plans and operations.**

Our business may be negatively affected if we are unable to effectively manage our expanded operations and there can be no assurance that we will be able to successfully integrate the businesses of Avintiv. Implementation of our integration plans will require significant time and focus from management and may divert attention from the day-to-day operations of the combined business. The integration of Avintiv may be made more difficult by our and Avintiv's respective efforts to continue to integrate other recent acquisitions, including Avintiv's recent acquisitions. The difficulties and risks associated with the integration of Avintiv could create substantial costs, delays or other problems that could adversely affect our business, financial condition and results of operations. As a result of these and other difficulties and risks, we may not accomplish the integration of Avintiv smoothly, successfully or within our budgetary expectations or anticipated timeframes. Accordingly, we may fail to realize some or all of the anticipated benefits of the Avintiv transaction.

**In the event of a catastrophic loss of one of our key manufacturing facilities, our business would be adversely affected.**

While we manufacture our products in a large number of diversified facilities and maintain insurance covering our facilities, including business interruption insurance, a catastrophic loss of the use of all or a portion of one of our key manufacturing facilities due to accident, labor issues, weather conditions, natural disaster or otherwise, whether short or long-term, could have a material adverse effect on us.

**We depend on information technology systems and infrastructure to operate our business, system inadequacies or failures could harm our business.**

We rely on the efficient and uninterrupted operation of information technology systems and networks. These systems and networks are potentially vulnerable to damage or interruption from a variety of sources, including energy or telecommunications failures, breakdowns, natural disasters, terrorism, war, computer malware or other malicious intrusions, and random attacks. To date, system interruptions have been infrequent and have not had a material impact on the business. However, there can be no assurance that these efforts will prevent future interruptions that would have a material adverse effect on our business.

**Goodwill and other intangibles represent a significant amount of our net worth, and a future write-off could result in lower reported net income and a reduction of our net worth.**

We are required to evaluate goodwill reflected on our balance sheet when circumstances indicate a potential impairment, or at least annually, under the impairment testing guidelines outlined in the standard. Future changes in the market multiples, cost of capital, expected cash flows, or other factors may cause our goodwill to be impaired, resulting in a non-cash charge against results of operations to write off goodwill for the amount of impairment. If a future write-off is required, the charge could have a material adverse effect on our consolidated net income in the period of any such write off.



**Disruptions in the overall economy and the financial markets may adversely impact our business.**

Our industry is affected by macroeconomic factors, including national, regional, and local economic conditions, employment levels, and shifts in consumer spending patterns. Disruptions in the overall economy and volatility in the financial markets could reduce consumer confidence in the economy, negatively affecting consumer spending, which could be harmful to our financial position and results of operations. In such event, decreased cash flow generated from our business may adversely affect our financial position and our ability to fund our operations. In addition, major macroeconomic disruptions involving the financial markets could adversely affect our ability to access the credit markets and availability of financing for our operations.

**We are a holding company and rely on dividends and other payments, advances and transfers of funds from our subsidiaries to meet our obligations and pay dividends.**

Berry Plastics Group, Inc. has no direct operations and no significant assets other than ownership of 100% of the stock of Berry Plastics Corporation. Because Berry Plastics Group, Inc. conducts its operations through its subsidiaries, it depends on those entities for dividends and other payments to generate the funds necessary to meet its financial obligations, and to pay any dividends with respect to our common stock. Legal and contractual restrictions in the agreements governing current and future indebtedness of Berry Plastics Group, Inc.'s subsidiaries, as well as the financial condition and operating requirements of Berry Plastics Group, Inc.'s subsidiaries, may limit Berry Plastics Group, Inc.'s ability to obtain cash from its subsidiaries. The earnings from, or other available assets of, Berry Plastics Group, Inc.'s subsidiaries may not be sufficient to pay dividends or make distributions or loans to enable Berry Plastics Group, Inc. to pay dividends going forward.

**Our international operations pose risks to our business that may not be present with our domestic operations.**

We have expanded, and may continue to expand operations in foreign countries where we have an existing presence or enter new foreign markets and expect to increase sales of products as disposable income increases in developing markets. Foreign operations are subject to certain risks that are unique to doing business in foreign countries. These risks include fluctuations in foreign currency exchange rates, inflation, economic or political instability, shipping delays in both our products and receiving delays of raw materials, changes in applicable laws, including assessments of income and non-income related taxes, reduced protection of intellectual property and regulatory policies and various trade restrictions including potential changes to export taxes or countervailing and anti-dumping duties for exported products from these countries. We expect that the Avintiv transaction will rebalance our business mix to a greater percentage of international operations, which will increase our exposure to these risks. Any of these risks could have a negative impact on our ability to deliver products to customers on a competitive and timely basis. This could reduce or impair our net sales, profits, cash flows and financial position. We are also subject to the Foreign Corrupt Practices Act and other anti-bribery laws that generally bar bribes or unreasonable gifts to foreign governments or officials. We have implemented safeguards and policies to discourage these practices by our employees and agents. However, our existing safeguards and policies to assure compliance and any future improvements may prove to be less than effective and our employees or agents may engage in conduct for which we might be held responsible. If employees violate our policies, we may be subject to regulatory sanctions. Violations of these laws or regulations could result in sanctions including fines, debarment from export privileges and penalties and could adversely affect our business, financial condition and results of operations.

**We hold cash and cash equivalents at various foreign subsidiaries that may not be readily available to meet U.S. cash requirements.**

Our various foreign subsidiaries hold cash and cash equivalents and these balances held outside the United States may not be readily available to meet our domestic cash requirements. As a result of the Avintiv transaction, we expect a greater percentage of our cash flows to be generated by our international operations. If we are unable to meet our U.S. cash requirements using cash flows from U.S. operations, cash and cash equivalents held in the U.S., or by settling loans receivable with our foreign subsidiaries, it may be necessary for us to consider repatriation of earnings held outside the U.S. This may require us to record additional income tax expense and remit additional taxes, which could have a material effect on our business, financial condition and results of operations.

**We may not be successful in protecting our intellectual property rights, including our unpatented proprietary know-how and trade secrets, or in avoiding claims that we infringed on the intellectual property rights of others.**

In addition to relying on patent and trademark rights, we rely on unpatented proprietary know-how and trade secrets, and employ various methods, including confidentiality agreements with employees and consultants, customers and suppliers to protect our know-how and trade secrets. However, these methods and our patents and trademarks may not afford complete protection and there can be no assurance that others will not independently develop the know-how and trade secrets or develop better production methods than us. Further, we may not be able to deter current and former employees, contractors and other parties from breaching agreements and misappropriating proprietary information and it is possible that third parties may copy or otherwise obtain and use our information and proprietary technology without authorization or otherwise infringe on our intellectual property rights. Furthermore, no assurance can be given that we will not be subject to claims asserting the infringement of the intellectual property rights of third parties seeking damages, the payment of royalties or licensing fees and/or injunctions against the sale of our products. Any such litigation could be protracted and costly and could have a material adverse effect on our business, financial condition and results of operations.

**New and stricter legislation and regulations may affect our business and consolidated financial condition and results of operations.**

Increased legislative and regulatory activity and burdens, and a more stringent manner in which they are applied (particularly in the U.S.), could significantly impact our business and the economy as a whole. This includes, among other things, the possible taxation under U.S. law of certain income from foreign operations, compliance costs and enforcement under the Dodd-Frank Wall Street Reform and Consumer Protection Act, compliance costs and enforcement under the Sarbanes-Oxley Act, and costs associated with complying with the Patient Protection and Affordable Care Act and the regulations promulgated thereunder. Specifically, the Sarbanes-Oxley Act requires that we maintain effective disclosure controls and procedures and internal control over financial reporting. Our independent public accountants auditing our financial statements are required to attest to the effectiveness of our internal control over financial reporting. In order to continue to maintain the effectiveness of our disclosure controls and procedures and internal control over financial reporting significant resources and management oversight is required.

**We may not be able to achieve cost savings as a result of our restructuring efforts and productivity and cost reduction initiatives.**

From time to time we enter into cost reduction plans designed to deliver cost savings and improve equipment utilization. Our ability to achieve the anticipated cost savings and other benefits from these initiatives within the expected time frame is subject to many estimates and assumptions. Additionally, there are many factors which affect our ability to achieve savings as a result of productivity and cost reduction initiatives, such as difficult economic conditions, increased costs in other areas, the effects of and costs related to newly acquired entities, mistaken assumptions, and the other risk factors set forth herein. In addition, any actual savings may be balanced by incremental costs that were not foreseen at the time of the restructuring or cost reduction initiatives. As a result, anticipated savings may not be achieved on the timetable desired or at all. Additionally, while we execute these restructuring activities to achieve these savings, it is possible that our attention may be diverted from our ongoing operations which may have a negative impact on our ongoing operations.

**If we fail to maintain effective internal control over financial reporting at a reasonable assurance level following the Avintiv Transaction, we may not be able to accurately report our financial results, and may be required to restate previously published financial information which could have a material adverse effect on our operations, investor confidence in our business and the trading prices of our securities.**

We are required to assess the effectiveness of our internal control over financial reporting annually, as required by Section 404 of the Sarbanes-Oxley Act. Even though, as of September 26, 2015, we concluded that our internal control over financial reporting was effective, we need to maintain our processes and systems and adapt them as our business grows and changes. This continuous process of maintaining and adapting our internal controls and complying with Section 404 is expensive, time-consuming and requires significant management attention. As we grow our business or acquire other businesses, including Avintiv, our internal controls may become more complex and we may require significantly more resources to ensure they remain effective. Avintiv is not currently subject to the requirement to obtain an attestation report from its independent registered public accounting firm on its management evaluation of the effectiveness of its internal control over financial reporting.

Avintiv identified an error in the accounting for non-controlling interest in the financial statements of its subsidiary, AVINTIV Specialty Materials, for the unaudited interim periods ended June 28, 2014 and September 27, 2014 relating to its acquisition of Providencia, which resulted in the restatement of certain Avintiv Specialty Materials' consolidated financial statements for such periods. In addition, in the past Avintiv has identified and remediated material weaknesses and other deficiencies in its internal control over financial reporting. As a result of the restatement, Avintiv concluded that it had a material weakness in internal controls over financial reporting. Our remediation of a material weakness could require us to incur significant expense.

**Item 1B. UNRESOLVED STAFF COMMENTS**

None

**Item 2. PROPERTIES**

We lease or own our principal offices and manufacturing facilities. We believe that our property and equipment is well-maintained, in good operating condition and adequate for our present needs.

*Principal manufacturing facilities* - United States - 70 locations (42 Rigid Packaging, 14 Engineered Materials, 14 Flexible Packaging); Canada - 4 locations (1 Rigid Packaging, 2 Engineered Materials, 1 Flexible Packaging); Mexico - 4 locations (2 Engineered Materials, 2 Flexible Packaging); India - 2 locations (1 Engineered Materials, 1 Flexible Packaging); The Netherlands, Belgium, Germany and Australia (Engineered Materials); Brazil, Malaysia, China, and France (Flexible Packaging). The Evansville, Indiana facility serves as our world headquarters.



*Leased facilities* - Evansville, Indiana; Lawrence, Kansas; Phillipsburg, New Jersey; Bowling Green, Kentucky; Jackson, Tennessee; Anaheim, California; Cranbury, New Jersey; Easthampton, Massachusetts; Hanover, Maryland; Baltimore, Maryland; Westerlo, Belgium; Baroda, India; Atlanta, Georgia; Louisville, Kentucky; Peosta, Iowa; Quad Cities, Iowa; Syracuse, New York; Phoenix, Arizona; Aurora, Illinois; Lathrop, California; Tacoma, Washington; Bloomington, Indiana; Chippewa Falls, Wisconsin; Orillia, Canada; Mexico City, Mexico; Preston, Australia; Johor, Malaysia; Pewaukee, Wisconsin; Smyrna, Tennessee; Des Moines, Iowa; Milwaukee, Wisconsin; Schaumburg, Illinois; Washington, New Jersey; and Tlalnepantla, Mexico

*Avintiv manufacturing facilities* - United States - 5 locations, Brazil - 2 locations, France - 3 locations, China - 2 locations, United Kingdom - 2 locations (leased), Germany (leased), Canada, Mexico, Argentina, Colombia, Italy, Netherlands, Spain and India. The Avintiv manufacturing facilities currently owned and located in the United States are in the process of being pledged as collateral for our senior notes and credit facility borrowings.

**Item 3. LEGAL PROCEEDINGS**

In July 2012, Berry Plastics Corporation (“BPC”) was sued by a customer for breach of contract, breach of express warranty, and breach of implied warranties. The customer alleged that in December 2007 and January 2008 BPC supplied the customer with defective woven polypropylene fabric used to manufacture containers that it then sold to its customers. In November 2015, a jury rendered a judgment in favor of the customer, which is immaterial to the Company. The Company intends to appeal the judgment and file certain post-trial motions. While we are unable to predict the ultimate outcome of this matter, management expects any final judgment against BPC to be covered by insurance maintained by the Company.

The Company is party to various other legal proceedings, in addition to the matter discussed above, involving routine claims which are incidental to our business. Although our legal and financial liability with respect to such proceedings cannot be estimated with certainty, we believe that any ultimate liability would not be material to the business, financial condition, results of operations or cash flows.

**Item 4. MINE SAFETY DISCLOSURES**

Not applicable.

**PART II**

**Item 5. MARKET FOR REGISTRANT’S COMMON EQUITY, RELATED STOCKHOLDER**

Our common stock is listed on the New York Stock Exchange under the symbol “BERY”. The following table sets forth, for the periods indicated, the high and low sales prices per share of our common stock reported on the New York Stock Exchange.

	Fiscal 2015		Fiscal 2014	
	High	Low	High	Low
<b>1st quarter</b>	\$31.88	\$22.62	\$23.57	\$18.12
<b>2nd quarter</b>	36.52	30.88	24.75	21.88
<b>3rd quarter</b>	37.08	31.94	25.84	22.13
<b>4th quarter</b>	35.75	28.43	26.21	23.80

As of the date of this filing there were approximately 115 active record holders of the common stock, but we estimate the number of beneficial stockholders to be much higher as a number of our shares are held by brokers or dealers for their customers in street name.

During fiscal 2014 and 2015 we did not declare or pay any cash dividends on our common stock. Any future determination as to the declaration and payment of dividends, if any, will depend on then existing conditions, contractual requirements and other factors our board of directors may deem relevant. The terms of our senior secured credit facilities and the indentures governing our notes may restrict our ability to pay cash dividends on our common stock. Our debt instruments contain covenants that restrict our ability to pay dividends on our common stock, as well as the ability of our subsidiaries to pay dividends to us.

**Purchases of Equity Securities by the Issuer and Affiliated Purchasers**

There were no shares of our common stock repurchased during fiscal 2015.

**Item 6. SELECTED FINANCIAL DATA**

	Fiscal 2015	Fiscal 2014	Fiscal 2013	Fiscal 2012	Fiscal 2011
<b>Statement of Operations Data:</b>					
Net sales	\$ 4,881	\$ 4,958	\$ 4,647	\$ 4,766	\$ 4,561
Cost of goods sold	4,012	4,190	3,835	3,984	3,908
Selling, general and administrative	357	320	307	317	284
Amortization of intangibles	91	102	105	109	106
Restructuring and impairment charges <sup>(a)</sup>	13	30	14	31	221
Operating income	408	316	386	325	42
Debt extinguishment	94	35	64	—	68
Other expense (income), net	1	(7)	(7)	(7)	(7)
Interest expense, net	191	221	244	328	327
Income (loss) before income taxes	122	67	85	4	(346)
Income tax expense (benefit)	36	4	28	2	(47)
Consolidated net income (loss)	86	63	57	2	(299)
Net income attributable to non-controlling interest	—	1	—	—	—
Net income (loss) attributable to the Company	\$ 86	\$ 62	\$ 57	\$ 2	\$ (299)
Comprehensive income (loss)	\$ 10	\$ 37	\$ 86	\$ 3	\$ (324)
<b>Net income (loss) available to Common Stockholders:</b>					
Basic	\$ 0.72	\$ 0.53	\$ 0.50	\$ 0.02	\$ (3.55)
Diluted	0.70	0.51	0.48	0.02	(3.55)
<b>Balance Sheet Data (at period end):</b>					
Cash and cash equivalents	\$ 228	\$ 129	\$ 142	\$ 87	\$ 42
Property, plant and equipment, net	1,294	1,364	1,266	1,216	1,250
Total assets	5,028	5,252	5,111	5,060	5,161
Long-term debt obligations, less current portion	3,648	3,844	3,851	4,385	4,525
Total liabilities	5,081	5,353	5,307	5,512	5,612
Stockholders' equity (deficit)	(65)	(114)	(196)	(475)	(467)
<b>Cash Flow and other Financial Data:</b>					
Net cash from operating activities	\$ 637	\$ 530	\$ 464	\$ 479	\$ 327
Net cash from investing activities	(165)	(422)	(245)	(255)	(523)
Net cash from financing activities	(365)	(119)	(164)	(179)	90

<sup>(a)</sup> Includes a goodwill impairment charge of \$165 million in fiscal 2011

**Item 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

You should read the following discussion in conjunction with the consolidated financial statements of Berry Plastics Group, Inc. and its subsidiaries and the accompanying notes thereto, which information is included elsewhere herein. This discussion contains forward-looking statements and involves numerous risks and uncertainties, including, but not limited to, those described in the "Risk Factors" section. Our actual results may differ materially from those contained in any forward-looking statements. Segment level discussion of the results is disclosed in a manner consistent with the organization structure at the end of the presented period.

**Overview**

Berry Plastics Group, Inc. ("Berry," "we," or the "Company") is a leading provider of value-added plastic consumer packaging and engineered materials with a track record of delivering high-quality customized solutions to our customers. Representative examples of our products include specialty closures, prescription vials, specialty films, adhesives, corrosion protection materials, as well as drink cups, thin-wall containers, and bottles. We sell our products predominantly into stable, consumer-oriented end-markets, such as healthcare, personal care, and food and beverage.

We believe that we have created one of the largest product libraries in our industry, allowing us to be a comprehensive solution provider to our customers. Our customers consist of a diverse mix of leading global, national, mid-sized regional and local specialty businesses. The size and scope of our customer network allows us to introduce new products we develop or acquire to a vast audience that is familiar with our brand. In fiscal 2015, no single customer represented more than approximately 2% of net sales and our top ten customers represented 16% of net sales. We believe our manufacturing processes and our ability to leverage our scale to reduce expenses on items, such as raw materials, position us as a low-cost manufacturer relative to our competitors.

## Executive Summary

Business. During fiscal 2015, we operated in the following four segments: Rigid Open Top, Rigid Closed Top (together our Rigid Packaging business), Engineered Materials, and Flexible Packaging. The Rigid Packaging business sells primarily containers, foodservice items, closures, overcaps, bottles, prescription containers, and tubes. Our Engineered Materials segment primarily sells pipeline corrosion protection solutions, tapes and adhesives, polyethylene based film products, and can liners. The Flexible Packaging segment primarily sells high barrier, multilayer film products, as well as finished flexible packages such as printed pouches.

*Raw Material Trends.* Our primary raw material is plastic resin. Polypropylene and polyethylene account for approximately 90% of our plastic resin pounds purchased. Plastic resins are subject to price fluctuations, including those arising from supply shortages and changes in the prices of natural gas, crude oil and other petrochemical intermediates from which resins are produced. The average industry prices, as published in Chem Data, per pound were as follows by fiscal year:

	Polyethylene Butene Film			Polypropylene		
	2015	2014	2013	2015	2014	2013
1st quarter	\$ .86	\$ .82	\$ .69	\$ .92	\$ .89	\$ .76
2nd quarter	.75	.85	.74	.73	.95	.96
3rd quarter	.76	.86	.77	.68	.91	.84
4th quarter	.73	.87	.79	.66	.92	.89

Due to differences in the timing of passing through resin cost changes to our customers on escalator/de-escalator programs, segments are negatively impacted in the short term when plastic resin costs increase and are positively impacted in the short term when plastic resin costs decrease. This timing lag in passing through raw material cost changes could affect our results as plastic resin costs fluctuate.

*Outlook.* The Company is impacted by general economic and industrial growth, plastic resin availability and affordability, and general industrial production. Our business has both geographic and end market diversity, which reduces the effect of any one of these factors on our overall performance. Our results are affected by our ability to pass through raw material cost changes to our customers, improve manufacturing productivity and adapt to volume changes of our customers. Consumer demand for packaged food products has been under pressure for over two years. This has put pressure on industry margins and asset utilization rates, which the Company has been able to partially offset by pricing actions, asset consolidations, introduction of new products and synergies from acquisitions. During the first half of fiscal 2015 we received a favorable impact on cash from operating activities from the declining resin prices. As resin prices stabilize, we do not expect to receive this benefit from falling resin prices in fiscal 2016. Additionally, our fiscal 2016 Adjusted Free Cash Flow guidance of \$475 million assumes flat overall volumes, with our new Health, Hygiene and Specialties division expected to grow above the overall Company average. Components of adjusted free cash flow include \$817 million of cash flow from operations, less \$285 million of additions to property, plant, and equipment and \$57 million of payments under our tax receivable agreement. For further information related to Adjusted Free Cash Flow as a non-GAAP financial measure, see "Liquidity and Capital Resources."

## Recent Developments

### Revolving Line of Credit

In May 2015, the Company amended the credit agreement relating to its existing \$650 million secured revolving credit facility to extend the maturity date of the revolving credit facility from June 2016 to May 2020 and to reduce interest margins and certain commitment fees.

### 5<sup>1</sup>/<sub>8</sub>% Second Priority Senior Secured Notes

In June 2015, the Company issued \$700 million of 5<sup>1</sup>/<sub>8</sub>% second priority senior secured notes due July 2023. Interest on the 5<sup>1</sup>/<sub>8</sub>% second priority senior secured notes is due semi-annually on January 15 and July 15. Proceeds from the issuance and existing liquidity were used to satisfy and discharge all of the outstanding 9<sup>3</sup>/<sub>4</sub>% second priority senior secured notes. The Company recognized a \$94 million loss on extinguishment of debt, including \$83 million of early tender and redemption costs and an \$11 million write-off of deferred financing fees.

### Interest Rate Swap

In September 2015, the Company entered into an interest rate swap transaction to protect \$1 billion of outstanding variable rate term loan debt from future interest rate volatility. The agreement swapped the greater of a three-month variable LIBOR contract or 1.00% for a fixed annual rate of 1.7185%, with an effective date in December 2015 and expiration in June 2019.

## Recent Acquisitions

Our acquisition strategy is focused on improving our long-term financial performance, enhancing our market positions, and expanding our existing and complementary product lines. We seek to obtain businesses for attractive post-synergy multiples, creating value for our stockholders from synergy realization, leveraging the acquired products across our customer base, creating new platforms for future growth, and assuming best practices from the businesses we acquire. The Company has included the expected benefits of acquisition integrations and restructuring plans within our unrealized synergies, which are in turn recognized in earnings after an acquisition has been fully integrated or the restructuring plan is completed. While the expected benefits on earnings is estimated at the commencement of each transaction, once the execution of the plan and integration occur, we are generally unable to accurately estimate or track what the ultimate effects have been due to system integrations and movements of activities to multiple facilities. As historical business combinations and restructuring plans have not allowed us to accurately separate realized synergies compared to what was initially identified, we measure the synergy realization based on the overall segment profitability post integration.

### Fiscal 2014 Acquisitions

In fiscal 2014, the Company completed 3 acquisitions which included the Rexam Healthcare Containers and Closures business ("C&C") for a purchase price of \$133 million, net of cash acquired, Graphic Flexible Packaging LLC's flexible plastics and films business for a purchase price of \$61 million, net of cash acquired, and a controlling interest (75%) in Qingdao P&B Co., Ltd. for a purchase price of \$35 million, net of cash acquired. See note 2 to the consolidated financial statements for further discussion on the respective acquisitions.

In October 2015, the Company acquired 100% of the capital stock of “Avintiv” for a purchase price of approximately \$2.3 billion which is preliminary and subject to adjustment. Avintiv is one of the world’s leading developers, producers, and marketers of nonwoven specialty materials used in hygiene, infection prevention, personal care, and high-performance solutions. With 23 locations in 14 countries, an employee base of over 4,500 people, and the broadest range of process technologies in the industry, Avintiv’s strategically located manufacturing facilities position it as a global supplier to many of the same leading consumer and industrial product manufacturers that Berry supplies and utilize similar key raw materials as Berry’s existing business. To finance the purchase, the Company issued \$400 million aggregate principal amount of 6.0% second priority senior secured notes due 2022 and entered into an incremental assumption agreement to increase the commitments under the Company’s existing term loan credit agreement by \$2.1 billion due 2022. See note 17 to the consolidated financial statements for further discussion on the Avintiv acquisition.

**Discussion of Results of Operations for Fiscal 2015 Compared to Fiscal 2014**

<i>Consolidated Overview</i>	<b>Fiscal Year</b>			
	<b>2015</b>	<b>2014</b>	<b>\$ Change</b>	<b>% Change</b>
Net sales	\$ 4,881	\$ 4,958	\$ (77)	(2%)
Operating income	\$ 408	\$ 316	\$ 92	29%
Operating income percentage of net sales	8%	6%		

The net sales decrease of \$77 million from fiscal 2014 is primarily attributed to a 3% base volume decline primarily related to soft customer demand, selling price decreases of 2% due to the pass through of lower raw material costs, and a 1% negative impact from foreign currency changes partially offset by net sales from businesses acquired in the last twelve months.

The operating income increase of \$92 million from fiscal 2014 is primarily attributed to a \$42 million improvement in the relationship of net selling price to raw material and freight costs, \$6 million of operating income from businesses acquired in the last twelve months, a \$17 million decrease in depreciation and amortization expense, a \$19 million improvement in operating performance in manufacturing, and a \$56 million decrease in business integration expenses. The \$56 million decrease in business integration expenses primarily consisted of a decrease in restructuring and impairment costs of \$17 million and a \$39 million decrease in costs attributed primarily to manufacturing inefficiencies associated with the 2014 cost reduction plan and acquisition integration costs. These improvements were partially offset by \$26 million from base volume declines, a \$15 million increase in selling, general and administrative expenses, and a \$7 million negative impact from foreign currency changes. Business integration expenses consist of restructuring and impairment charges, manufacturing inefficiencies associated with cost reduction plans, major innovation start-up and other business optimization costs. Acquisition operating income (loss) is generally analyzed in total until the acquisition has been included in our results for a full year.

<i>Rigid Open Top</i>	<b>Fiscal Year</b>			
	<b>2015</b>	<b>2014</b>	<b>\$ Change</b>	<b>% Change</b>
Net sales	\$ 1,055	\$ 1,110	\$ (55)	(5%)
Operating income	\$ 71	\$ 34	\$ 37	109%
Operating income percentage of net sales	7%	3%		

Net sales in the Rigid Open Top segment decreased by \$55 million from fiscal 2014 primarily due to a 3% base volume decline and selling price decreases of 2% due to the pass through of lower raw material costs. The base volume decline is primarily related to a decline in dairy container product sales due to soft customer demand.

The operating income increase of \$37 million from fiscal 2014 primarily is attributed to \$14 million of improvement in the relationship of net selling price to raw material and freight costs and a \$37 million decrease in business integration expenses. The \$37 million decrease primarily consisted of a decrease in restructuring and impairment costs of \$8 million and a \$29 million decrease in costs attributed to manufacturing inefficiencies associated with the 2014 cost reduction plan. These improvements were partially offset by \$7 million in base volume declines, a \$5 million increase in selling, general and administrative expenses, and a decline in operating performance in manufacturing.

<i>Rigid Closed Top</i>	Fiscal Year			
	2015	2014	\$ Change	% Change
Net sales	\$ 1,474	\$ 1,469	\$ 5	0%
Operating income	\$ 139	\$ 132	\$ 7	5%
Operating income percentage of net sales	9%	9%		

Net sales in the Rigid Closed Top segment increased by \$5 million from fiscal 2014 primarily as a result of acquisition volume of 7% attributed to the United States portion of the Healthcare Containers and Closures business purchased from Rexam ("C&C"), partially offset by a volume decline of 3% and selling price decreases due to the pass through of lower raw material costs. The volume decline is primarily attributed to general market softness in our closure product offerings.

The operating income increase of \$7 million from fiscal 2014 is primarily attributed to a \$8 million improvement in operating performance in manufacturing, \$3 million of improvement in the relationship of net selling price to raw material and freight costs, a \$7 million decrease in depreciation and amortization expense, and a \$3 million decline in selling, general, and administrative expenses, partially offset by \$14 million in base volume declines.

<i>Engineered Materials</i>	Fiscal Year			
	2015	2014	\$ Change	% Change
Net sales	\$ 1,397	\$ 1,455	\$ (58)	(4%)
Operating income	\$ 143	\$ 125	\$ 18	14%
Operating income percentage of net sales	10%	9%		

Net sales in the Engineered Materials segment decreased by \$58 million from fiscal 2014 primarily as a result of a 1% base volume decline, selling price decreases of 1% due to the pass through of lower raw material costs, and a 2% negative impact from foreign currency. The base volume decline is primarily attributed to general market softness and lost import revenues in our home and party product offerings.

The operating income increase of \$18 million from fiscal 2014 is primarily attributed to a decrease in restructuring and impairment costs of \$6 million, a \$3 million improvement in operating performance in manufacturing, a \$13 million improvement in the relationship of net selling price to raw material and freight costs, and a \$7 million decrease in depreciation and amortization expense, partially offset by a \$4 million increase in selling, general, and administrative expenses, a \$3 million negative impact from foreign currency changes, and \$2 million in base volume declines.

<i>Flexible Packaging</i>	Fiscal Year			
	2015	2014	\$ Change	% Change
Net sales	\$ 955	\$ 924	\$ 31	3%
Operating income	\$ 55	\$ 25	\$ 30	120%
Operating income percentage of net sales	6%	3%		

Net sales in Flexible Packaging increased \$31 million from fiscal 2014 primarily as a result of acquisition volume of 9% partially offset by a 3% base volume decline and a 3% negative impact from foreign currency changes.

The operating income increase of \$30 million in the Flexible Packaging segment from fiscal 2014 is primarily attributed to a \$9 million improvement in operating performance in manufacturing, a \$12 million improvement in the relationship of net selling price to raw material and freight costs, an \$8 million benefit from businesses acquired in the last 12 months, a \$3 million decrease in depreciation and amortization expense, a decrease in restructuring and impairment costs of \$4 million, and a \$10 million decrease of costs primarily from manufacturing inefficiencies associated with the 2014 cost reduction plan partially offset by \$3 million from base volume declines, \$9 million of increased selling general and administrative expenses, and a \$4 million negative impact from foreign currency changes.

<i>Debt extinguishment</i>	Fiscal Year			
	2015	2014	\$ Change	% Change
Debt extinguishment	\$ 94	\$ 35	\$ 59	169%

Debt extinguishment increase of \$59 million from fiscal 2014 primarily due to tender and redemption costs associated with the discharge of the 9¾% second priority senior secured notes in fiscal 2015 compared to the various costs related to the discharge of the 9½% second priority senior secured notes in fiscal 2014.

	Fiscal Year			
	2015	2014	\$ Change	% Change
<b>Other expense (income), net</b>				
Other expense (income), net	\$ 1	\$ (7)	\$ 8	114%

The other expense (income) increase of \$8 million from fiscal 2014 is primarily the result of losses realized on the sale and disposal of assets in fiscal 2015 compared to gains on the sale of assets in fiscal 2014.

	Fiscal Year			
	2015	2014	\$ Change	% Change
<b>Interest expense</b>				
Interest expense, net	\$ 191	\$ 221	\$ (30)	(14%)

Interest expense decreased \$30 million from fiscal 2014 primarily as the result of the retirement of the 9¾% second priority senior secured notes and corresponding issuance of the 5⅛% second priority senior secured notes in June 2015 as well as the retirement of the 9½% second priority senior secured notes and corresponding issuance of the 5½% second priority senior secured notes in May 2014.

	Fiscal Year			
	2015	2014	\$ Change	% Change
<b>Income tax expense</b>				
Income tax expense	\$ 36	\$ 4	\$ 32	800%

We recorded an income tax expense of \$36 million in fiscal 2015. The effective tax rate for fiscal 2015 compared to fiscal 2014 is impacted by discrete items, the inclusion of certain international entities for which a full valuation allowance is recognized, and \$20 million of federal and state research and development tax credits recognized in fiscal 2014.

#### Discussion of Results of Operations for Fiscal 2014 Compared to Fiscal 2013

	Fiscal Year			
	2014	2013	\$ Change	% Change
<b>Consolidated Overview</b>				
Net sales	\$ 4,958	\$ 4,647	\$ 311	7%
Operating income	\$ 316	\$ 386	\$ (70)	(18%)
Operating income percentage of net sales	6%	8%		

Net sales increased from \$4,647 million in fiscal 2013 to \$4,958 million in fiscal 2014. This increase is primarily attributed to net sales from businesses acquired in the last twelve months of 4% and selling price increases of 4% due to higher resin prices partially offset by base volume declines.

Operating income decreased from \$386 million in fiscal 2013 to \$316 million in fiscal 2014. This decrease is primarily attributed \$27 million of raw material and freight cost inflation in excess of net selling price increases, \$19 million from base volume declines described above, a \$2 million increase in depreciation and amortization expense, and a \$57 million increase in business integration expense. The \$57 million increase in business integration expense primarily consisted of an increase in restructuring and impairment costs of \$16 million, an increase of \$9 million related to major innovation start-up costs and the remaining \$32 million primarily being costs attributed to manufacturing inefficiencies associated with the 2014 cost reduction plan and acquisition integration costs. Manufacturing inefficiencies represent abnormal period costs including wasted materials, unplanned facility or equipment downtime, and excess labor incurred at both rationalized and receiving facilities.

	Fiscal Year			
	2014	2013	\$ Change	% Change
<b>Rigid Open Top</b>				
Net sales	\$ 1,110	\$ 1,127	\$ (17)	(2%)
Operating income	\$ 34	\$ 123	\$ (89)	(72%)
Operating income percentage of net sales	3%	11%		

Net sales in the Rigid Open Top segment decreased from \$1,127 million in fiscal 2013 to \$1,110 million in fiscal 2014 due to base volume declines of 5% and product realignment of 1% partially offset by net selling price increases of 4%. The volume decline was primarily attributed to softness in thermoformed drink cups and container product offerings.



Operating income for the Rigid Open Top segment decreased from \$123 million in fiscal 2013 to \$34 million in fiscal 2014. This decrease is primarily attributed to \$18 million from base volume declines, \$10 million decline in operating performance in manufacturing, \$1 million increase in selling, general and administrative expenses, a \$12 million decline in the relationship of net selling price to raw material and freight costs, and a \$48 million increase in business integration expense primarily consisting of an increase in restructuring and impairment costs of \$12 million, an increase of \$9 million related to major innovation start-up costs and the remaining \$27 million primarily being costs attributed to manufacturing inefficiencies associated with the 2014 cost reduction plan. These manufacturing inefficiencies represent abnormal period costs including wasted materials, unplanned facility or equipment downtime, and excess labor incurred at both rationalized and receiving facilities.

<b>Rigid Closed Top</b>	<b>Fiscal Year</b>			
	<b>2014</b>	<b>2013</b>	<b>\$ Change</b>	<b>% Change</b>
Net sales	\$ 1,469	\$ 1,387	\$ 82	6%
Operating income	\$ 132	\$ 130	\$ 2	2%
Operating income percentage of net sales	9%	9%		

Net sales in the Rigid Closed Top segment increased from \$1,387 million in fiscal 2013 to \$1,469 million in fiscal 2014 as a result of net selling price increases of 2% and C&C acquisition volume of 4%.

Operating income for the Rigid Closed Top segment increased from \$130 million in fiscal 2013 to \$132 million in fiscal 2014. The increase is attributed to a \$6 million decline in the relationship of net selling price to raw material costs, \$1 million attributed to negative product mix, \$3 million increase in business integration expenses attributed to acquisition integration, and \$1 million loss from businesses acquired in the last twelve months offset by \$1 million decrease in depreciation and amortization, a \$7 million improvement in operating performance in manufacturing and a \$5 million improvement in selling, general and administrative expenses.

<b>Engineered Materials</b>	<b>Fiscal Year</b>			
	<b>2014</b>	<b>2013</b>	<b>\$ Change</b>	<b>% Change</b>
Net sales	\$ 1,455	\$ 1,397	\$ 58	4%
Operating income	\$ 125	\$ 116	\$ 9	8%
Operating income percentage of net sales	9%	8%		

The Engineered Materials segment net sales increased from \$1,397 million in fiscal 2013 to \$1,455 million in fiscal 2014 as a result of net selling price increases of 4% and base volume growth of 1% partially offset by exited business of 1%.

Operating income for the Engineered Materials segment increased from \$116 million in fiscal 2013 to \$125 million in fiscal 2014. This increase is primarily attributed to a \$19 million improvement in manufacturing operating performance, \$2 million decline in restructuring expense, a \$5 million decline in acquisition integration expense, and a \$4 million decline in selling, general and administrative expenses partially offset by \$14 million of raw material cost inflation in excess of net selling prices, \$2 million from exited business, and a \$5 million increase in depreciation and amortization expense.

<b>Flexible Packaging</b>	<b>Fiscal Year</b>			
	<b>2014</b>	<b>2013</b>	<b>\$ Change</b>	<b>% Change</b>
Net sales	\$ 924	\$ 736	\$ 188	26%
Operating income	\$ 25	\$ 17	\$ 8	47%
Operating income percentage of net sales	3%	2%		

The Flexible Packaging segment net sales increased from \$736 million in fiscal 2013 to \$924 million in fiscal 2014 as a result of businesses acquired in the last twelve months of 22%, product realignment of 1% and net selling price increases of 5% partially offset by a 2% volume decline attributed to soft customer demand.

Operating income for the Flexible Packaging segment increased from \$17 million in fiscal 2013 to \$25 million in fiscal 2014. This increase is primarily attributed to \$10 million benefit from businesses acquired in the last twelve months, \$5 million gain in the relationship of net selling price to raw material costs, \$4 million improvement in operating performance in manufacturing and a \$2 million decline in depreciation and amortization expense partially offset by an increase in restructuring and impairment costs of \$7 million, and a \$6 million increase in business integration expenses attributed to acquisition integration.

<b>Debt extinguishment</b>	<b>Fiscal Year</b>			
	<b>2014</b>	<b>2013</b>	<b>\$ Change</b>	<b>% Change</b>
Debt extinguishment	\$ 35	\$ 64	\$ (29)	(45%)

Debt extinguishment decreased from \$64 million in fiscal 2013 to \$35 million in fiscal 2014. The decrease is primarily attributed to the various debt extinguishment costs that resulted from our incremental term loan restructuring and use of the proceeds from our initial public offering in fiscal 2013 compared to the debt extinguishment costs related to the discharge of the outstanding 9½% second priority senior secured notes in fiscal 2014.

<i>Other income</i>	Fiscal Year		\$ Change	% Change
	2014	2013		
Other income, net	\$ (7)	\$ (7)	\$ —	—%

Other income remained flat at \$7 million in fiscal 2013 and fiscal 2014 primarily due to the change in the fair value of derivative instruments in fiscal 2013 offset by gains recognized on asset disposals in fiscal 2014.

<i>Interest expense</i>	Fiscal Year		\$ Change	% Change
	2014	2013		
Interest expense, net	\$ 221	\$ 244	\$ (23)	(9%)

Interest expense decreased from \$244 million in fiscal 2013 to \$221 million in fiscal 2014 primarily as the result of the various debt extinguishments and refinancings completed in the last twenty four months.

<i>Income tax expense</i>	Fiscal Year		\$ Change	% Change
	2014	2013		
Income tax expense	\$ 4	\$ 28	\$ (24)	(86%)

We recorded an income tax expense of \$4 million in fiscal 2014 compared to \$28 million in fiscal 2013. The effective tax rate is impacted by the relative impact of discrete items and certain international entities for which a full valuation allowance is recognized and \$20 million of federal and state research and development tax credits recognized in fiscal 2014.

## Liquidity and Capital Resources

### *Senior Secured Credit Facility*

We manage our global cash requirements considering (i) available funds among the many subsidiaries through which we conduct business, (ii) the geographic location of our liquidity needs, and (iii) the cost to access international cash balances. We have senior secured credit facilities consisting of \$2.4 billion of term loans and a \$650 million asset based revolving line of credit. The revolving credit facility matures in May 2020, \$1.0 billion of the term loans mature in January 2021, and the remaining \$1.4 billion of term loans mature in February 2020. The availability under the revolving line of credit is the lesser of \$650 million amount determined by a defined borrowing base which is calculated based on available accounts receivable and inventory. The revolving line of credit allows up to \$130 million of letters of credit to be issued instead of borrowings under the revolving line of credit. At the end of fiscal 2015, the Company had no outstanding balance on the revolving credit facility, \$37 million of outstanding letters of credit and a \$142 million borrowing base reserve, resulting in unused borrowing capacity of \$471 million under the revolving line of credit. The Company was in compliance with all covenants at the end of fiscal 2015.

Our fixed charge coverage ratio, as defined in the revolving credit facility, is calculated based on a numerator consisting of adjusted EBITDA less pro forma adjustments, income taxes paid in cash and capital expenditures, and a denominator consisting of scheduled principal payments in respect of indebtedness for borrowed money, interest expense and certain distributions. We are obligated to sustain a minimum fixed charge coverage ratio of 1.0 to 1.0 under the revolving credit facility at any time when the aggregate unused capacity under the revolving credit facility is less than 10% of the lesser of the revolving credit facility commitments and the borrowing base (and for 10 business days following the date upon which availability exceeds such threshold) or during the continuation of an event of default. Our fixed charge ratio was 2.9 to 1.0 at the end of fiscal 2015.

Despite not having financial maintenance covenants, our debt agreements contain certain negative covenants. The failure to comply with these negative covenants could restrict our ability to incur additional indebtedness, effect acquisitions, enter into certain significant business combinations, make distributions or redeem indebtedness. The term loan facility contains a negative covenant first lien secured leverage ratio covenant of 4.0 to 1.0 on a pro forma basis for a proposed transaction, such as an acquisition or incurrence of additional first lien debt. Our first lien secured leverage ratio was 2.8 to 1.0 at the end of fiscal 2015. In addition to its regular principal payments, in October 2014, the Company elected to make a voluntary one-time \$100 million principal payment on the outstanding term loan, using existing liquidity.

A key financial metric utilized in the calculation of the first lien leverage ratio is Adjusted EBITDA as defined in the Company's senior secured credit facilities. The following table reconciles (i) our Adjusted EBITDA to operating income and (ii) our Adjusted Free Cash Flow to cash flow from operating activities, in each case, for fiscal 2015 and the quarterly period ended September 26, 2015:

	Quarterly Period Ended	
	Fiscal 2015	September 26, 2015
Adjusted EBITDA	\$ 820	\$ 205
Depreciation and amortization	(350)	(87)
Business optimization and other expense (a)	(44)	(9)
Restructuring and impairment	(13)	(2)
Unrealized cost savings	(5)	—
Operating income	\$ 408	\$ 107
Cash flow from operating activities	\$ 637	\$ 245
Net additions to property, plant and equipment	(162)	(56)
Payments of tax receivable agreement	(39)	—
Adjusted free cash flow	\$ 436	\$ 189
Cash flow from investing activities	(165)	(59)
Cash flow from financing activities	(365)	(17)

(a) Includes business optimization, integration expenses and non-cash charges

Adjusted EBITDA and Adjusted Free Cash Flow, as presented in this document, are supplemental financial measures that are not required by, or presented in accordance with, generally accepted accounting principles in the United States ("GAAP"). Adjusted EBITDA and Adjusted Free Cash Flow are not GAAP financial measures and should not be considered as an alternative to operating or net income or cash flows from operating activities, in each case determined in accordance with GAAP. We define "Adjusted EBITDA" as operating income before depreciation, amortization, and certain restructuring and business optimization charges and as adjusted for unrealized cost reductions and acquired businesses, including unrealized synergies, which are more particularly defined in our credit documents and the indentures governing our notes. Adjusted EBITDA is used by our lenders for debt covenant compliance purposes and by our management as one of several measures to evaluate management performance. While the determination of appropriate adjustments in the calculation of Adjusted EBITDA is subject to interpretation under the terms of our credit facilities, management believes the adjustments described above are in accordance with the covenants in such credit facilities. Adjusted EBITDA eliminates certain charges that we believe do not reflect operations and underlying operational performance. Although we use Adjusted EBITDA as a financial measure to assess the performance of our business, the use of Adjusted EBITDA has important limitations, including that (1) Adjusted EBITDA does not represent funds available for dividends, reinvestment or other discretionary uses; (2) Adjusted EBITDA does not reflect cash outlays for capital expenditures or contractual commitments; (3) Adjusted EBITDA does not reflect changes in, or cash requirements for, working capital; (4) Adjusted EBITDA does not reflect the interest expense or the cash requirements necessary to service interest or principal payments on indebtedness; (5) Adjusted EBITDA does not reflect income tax expense or the cash necessary to pay income taxes; (6) Adjusted EBITDA excludes depreciation and amortization and, although depreciation and amortization are non-cash charges, the assets being depreciated and amortized will often have to be replaced in the future, and Adjusted EBITDA does not reflect cash requirements for such replacements; and (7) Adjusted EBITDA does not reflect the impact of earnings or charges resulting from matters we consider not to be indicative of our ongoing operations.

We define "Adjusted Free Cash Flow" as cash flow from operating activities less additions to property, plant and equipment and payments of the tax receivable agreement. We use Adjusted Free Cash Flow as a measure of liquidity because it assists us in assessing our company's ability to fund its growth through its generation of cash. We believe Adjusted Free Cash Flow is useful to an investor in evaluating our liquidity because Adjusted Free Cash Flow and similar measures are widely used by investors, securities analysts and other interested parties in our industry to measure a company's liquidity without regard to revenue and expense recognition, which can vary depending upon accounting methods. Although we use Adjusted Free Cash Flow as a liquidity measure to assess our ability to generate cash, the use of Adjusted Free Cash Flow has important limitations, including that: (1) Adjusted Free Cash Flow does not reflect the cash requirements necessary to service principal payments on our indebtedness; and (2) Adjusted Free Cash Flow removes the impact of accrual basis accounting on asset accounts and non-debt liability accounts.

These non-GAAP financial measures may be calculated differently by other companies, including other companies in our industry, limiting their usefulness as comparative measures. Because of these limitations, you should consider Adjusted EBITDA and Adjusted Free Cash Flow alongside other performance measures and liquidity measures, including operating income, various cash flow metrics, net income and our other GAAP results.

Our contractual cash obligations at the end of fiscal 2015 are summarized in the following table which does not give any effect to the tax receivable agreement, including the \$57 million payment made in October 2015, or income taxes payable as we cannot reasonably estimate the timing of future cash outflows associated with those commitments.

	Payments due by period as of the end of fiscal 2015				
	Total	< 1 year	1-3 years	4-5 years	> 5 years
Long-term debt, excluding capital leases	\$ 3,588	\$ 14	\$ 28	\$ 1,327	\$ 2,219
Capital leases (a)	142	28	48	42	24
Fixed interest rate payments	462	63	127	127	145
Variable interest rate payments (b)	464	86	171	169	38
Operating leases	334	50	85	62	137
Funding of pension and other postretirement obligations (c)	3	3	—	—	—
Total contractual cash obligations	\$ 4,993	\$ 244	\$ 459	\$ 1,727	\$ 2,563

(a) Includes anticipated interest of \$16 million over the life of the capital leases.

(b) Based on applicable interest rates in effect end of fiscal 2015.

(c) Pension and other postretirement contributions have been included in the above table for the next fiscal year. The amount is the estimated contributions to our defined benefit plans. The assumptions used by the actuary in calculating the projection includes weighted average return on pension assets of approximately 7.25% for fiscal 2015. The estimation may vary based on the actual return on our plan assets. See footnotes to the Consolidated Financial Statements of this Form 10-K for more information on these obligations.

Note: Tables excludes \$2.5 billion of financing related to the Avintiv acquisitions that occurred in fiscal 2016 and Redeemable non-controlling interest of \$12 million as of fiscal 2015.

#### Cash Flows from Operating Activities

Net cash provided by operating activities increased \$107 million to \$637 million in fiscal 2015. The change is primarily attributed to improved operating performance and improved working capital. The working capital improvement was primarily attributed to declining resin prices during fiscal 2015.

Net cash provided by operating activities increased \$66 million to \$530 million in fiscal 2014. The change is primarily attributed to improved working capital.

#### Cash Flows from Investing Activities

Net cash used in investing activities decreased \$257 million to \$165 million in fiscal 2015 primarily as a result of decreased acquisition activity and lower capital expenditures.

Net cash used in investing activities increased \$175 million to \$422 million in fiscal 2014 primarily as a result of an increase in acquisition activity in the prior twelve months, offset by lower capital expenditures.

#### Cash Flows from Financing Activities

Net cash used in financing activities increased \$246 million to \$365 million in fiscal 2015. The change is primarily attributed to an increase in long-term debt repayments and increased debt financing costs related to the discharge of the 9% second priority senior secured notes.

Net cash used in financing activities decreased \$45 million to \$119 million in fiscal 2014. The change is primarily attributed to a decline in long-term repayments, net of proceeds from the initial public offering, partially offset by the \$32 million of tax receivable agreement payments.

#### Liquidity Outlook

**Tax receivable agreement** – In connection with the initial public offering, the Company entered into an income tax receivable agreement (“TRA”) that provides for the payment to pre-initial public offering stockholders, option holders and holders of our stock appreciation rights, 85% of the amount of cash savings, if any, in U.S. federal, foreign, state and local income tax that are actually realized (or are deemed to be realized in the case of a change of control) as a result of the utilization of our and our subsidiaries’ net operating losses attributable to periods prior to the initial public offering. The total TRA balance at the end of fiscal 2015 was \$232 million, prior to the \$57 million payment made in October of 2015.

At the end of fiscal 2015, our cash balance was \$228 million, of which \$65 million was located outside the U.S. The Company has deemed cash located outside the U.S. to be indefinitely reinvested and we intend to use this to finance our foreign operations and for future international expansion. We believe our existing U.S. based cash and cash flow from U.S. operations, together with available borrowings under our senior secured credit facilities, will be adequate to meet our liquidity needs over the next twelve months. We do not expect our free cash flow to be sufficient to cover all long-term debt obligations and intend to refinance these obligations prior to maturity. However, we cannot predict our future results of operations and our ability to meet our obligations involves numerous risks and uncertainties, including, but not limited to, those described in the “Risk Factors” section in this Form 10-K.

## Critical Accounting Policies and Estimates

We disclose those accounting policies that we consider to be significant in determining the amounts to be utilized for communicating our consolidated financial position, results of operations and cash flows in the first note to our consolidated financial statements included elsewhere herein. Our discussion and analysis of our financial condition and results of operations are based on our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of financial statements in conformity with these principles requires management to make estimates and assumptions that affect amounts reported in the financial statements and accompanying notes. Our estimates and judgments are based on historical experience and on various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates under different assumptions or conditions.

**Revenue Recognition.** Revenue from the sales of products is recognized at the time title and risks and rewards of ownership pass to the customer (either when the products reach the free-on-board shipping point or destination depending on the contractual terms), there is persuasive evidence of an arrangement, the sales price is fixed and determinable and collection is reasonably assured.

**Accrued Rebates.** We offer various rebates to our customers in exchange for their purchases. These rebate programs are individually negotiated with our customers and contain a variety of different terms and conditions. Certain rebates are calculated as flat percentages of purchases, while others include tiered volume incentives. These rebates may be payable monthly, quarterly, or annually. The calculation of the accrued rebate balance involves significant management estimates, especially where the terms of the rebate involve tiered volume levels that require estimates of expected annual sales. These provisions are based on estimates derived from current program requirements and historical experience. We use all available information when calculating these reserves. Our accrual for customer rebates was \$53 million and \$50 million as of the end of fiscal 2015 and 2014, respectively.

**Impairments of Long-Lived Assets.** In accordance with the guidance from the FASB for the impairment or disposal of long-lived assets we review long-lived assets for impairment whenever events or changes in circumstances indicate the carrying amount of such assets may not be recoverable. Impairment losses are recorded on long-lived assets used in operations when indicators of impairment are present and the undiscounted cash flows estimated to be generated by those assets are less than the assets’ carrying amounts. The impairment loss is measured by comparing the fair value of the asset to its carrying amount. We recognized non-cash asset impairment of long-lived assets of \$2 million, \$7 million and \$5 million in fiscal 2015, 2014 and 2013, respectively.

**Goodwill and Other Indefinite Lived Intangible Assets.** We evaluate goodwill using a qualitative assessment to determine whether it is more likely than not that the fair value of any reporting unit is less than the carrying amount. If we determine that the fair value of the reporting unit is more likely than not below its carrying amount, we evaluate the goodwill of that reporting unit using a two-step impairment test. Otherwise, we conclude that no impairment is indicated and we do not perform the two-step impairment test.

For purposes of conducting our annual goodwill assessment, we have six reporting units, Rigid Open Top, Rigid Closed Top, Engineered Materials, Flexible Packaging, Tapes and International. We determined that each of the components within our respective reporting units should be aggregated and tested at the respective level as one reporting unit. We reached this conclusion because within each of our reporting units, we have similar products, production processes, markets served or management oversight which allows us to share assets and resources across the components. We regularly re-align our production equipment and manufacturing facilities in order to take advantage of cost savings opportunities, obtain synergies and create manufacturing efficiencies. We utilize our research and development centers, design center, tool shops, and graphics center which all provide benefits to each of the reporting units and work on new products that can benefit multiple components. We also believe that the goodwill is recoverable from the overall operations of the unit given the similarity in production processes, synergies from leveraging the combined resources, common raw materials, common research and development, similar margins, management oversight and similar distribution methodologies. There were no indicators of impairment in the fourth quarter that required us to perform a test for the recoverability of goodwill.

In conducting a qualitative assessment, the Company analyzes a variety of events or factors that may influence the fair value of the reporting unit, including; changes in the carrying amount of the reporting unit; relevant market data for both the company and its peer companies; industry outlooks; macroeconomic conditions; liquidity; changes in key personnel; and the Company’s competitive position. Significant judgment is used to evaluate the totality of these events and factors to make the determination of whether it is more likely than not that the fair value of the reporting unit is less than its carrying value.

We completed our qualitative screen as of the first date of the fourth fiscal quarter and determined that it was more likely than not that the fair value of each of our reporting units was greater than the carrying value, thus it was not necessary to perform Step 1 for any of our reporting units during fiscal 2015. We reached this conclusion based on the increased valuations within the packaging industry and projected future operating results of our reporting units. The identified increased valuations within the plastics packaging industry is supported by the Company’s increase in stock price, market capitalization, and total enterprise value. Future declines in packaging market multiple, significant declines in operating performance, or significant declines in sales could impact future impairment tests or may require a more frequent assessment.

Goodwill as of September 26, 2015, by reporting unit is as follows:

	Goodwill as of September 26, 2015	
Rigid Open Top	\$	681
Rigid Closed Top		823
Engineered Films		52
Tapes		17
Flexible Packaging		61
International		18
	\$	<u>1,652</u>

We also performed our annual impairment test for fiscal 2015 of our indefinite lived intangible assets, which relates to the “Berry Plastics” trade name and totaled \$207 million at September 26, 2015 and determined that no impairment existed. The fair value is estimated based on the income approach. Our forecasts included revenue growth consistent with our historical revenue growth assumptions and inflation. Similar to our goodwill, significant declines in our sales or operating performance could impact future impairment tests or may require a more frequent assessment.

*Deferred Taxes and Effective Tax Rates.* We estimate the effective tax rates (“ETR”) and associated liabilities or assets for each of our legal entities of ours in accordance with authoritative guidance. We use tax planning to minimize or defer tax liabilities to future periods. In recording ETRs and related liabilities and assets, we rely upon estimates, which are based upon our interpretation of United States and local tax laws as they apply to our legal entities and our overall tax structure. Audits by local tax jurisdictions, including the United States Government, could yield different interpretations from our own and cause the Company to owe more taxes than originally recorded. For interim periods, we accrue our tax provision at the ETR that we expect for the full year. As the actual results from our various businesses vary from our estimates earlier in the year, we adjust the succeeding interim periods’ ETRs to reflect our best estimate for the year-to-date results and for the full year. As part of the ETR, if we determine that a deferred tax asset arising from temporary differences is not likely to be utilized, we will establish a valuation allowance against that asset to record it at its expected realizable value. In multiple foreign jurisdictions, the Company believes that it will not generate sufficient future taxable income to realize the related tax benefits. The Company has provided a full valuation allowance against its foreign net operating losses included within the deferred tax assets in multiple foreign jurisdictions. The Company has not provided a valuation allowance on its federal net operating losses in the United States because it has cumulative income, federal taxable income, and has also determined that future reversals of its temporary taxable differences will occur in the same periods and are of the same nature as the temporary differences giving rise to the deferred tax assets. Changes in our valuation allowance could also impact our tax receivable agreement obligation. Our valuation allowance against deferred tax assets was \$29 million and \$56 million as of the end of fiscal 2015 and 2014, respectively.

Based on a critical assessment of our accounting policies and the underlying judgments and uncertainties affecting the application of those policies, we believe that our consolidated financial statements provide a meaningful and fair perspective of the Company and its consolidated subsidiaries. This is not to suggest that other risk factors such as changes in economic conditions, changes in material costs, our ability to pass through changes in material costs, and others could not materially adversely impact our consolidated financial position, results of operations and cash flows in future periods.

## **Item 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

### *Interest Rate Sensitivity*

We are exposed to market risk from changes in interest rates primarily through our senior secured credit facilities. At September 26, 2015, our senior secured credit facilities are comprised of (i) \$2.4 billion term loans and (ii) a \$650 million revolving credit facility with no borrowings outstanding. Borrowings under our senior secured credit facilities bear interest, at our option, at either an alternate base rate or an adjusted LIBOR rate for a one-, two-, three- or six month interest period, or a nine- or twelve-month period, if available to all relevant lenders, in each case, plus an applicable margin. The alternate base rate is the greater of (i) in the case of our term loans, Credit Suisse’s prime rate or, in the case of our revolving credit facility, Bank of America’s prime rate and (ii) one-half of 1.0% over the weighted average of rates on overnight Federal Funds as published by the Federal Reserve Bank of New York. At September 26, 2015, the LIBOR rate of 0.33% applicable to the term loans was below the LIBOR floor of 1.00. A 0.25% change in LIBOR would not have a material impact on our interest expense.

In February 2013, the Company entered into an interest rate swap transaction to protect \$1 billion of outstanding variable rate term loan debt from future interest rate volatility. The agreement swapped the greater of a three-month variable LIBOR contract or 1.00% for a fixed annual rate of 2.355%, with an effective date in May 2016 and expiration in May 2019. In June 2013, the Company elected to settle this derivative instrument and received \$16 million as a result of this settlement. The offset is included in Accumulated other comprehensive loss and Deferred income taxes and will be amortized to Interest expense from May 2016 through May 2019, the original term of the swap agreement.

In March 2014, the Company entered into an interest rate swap transaction to protect \$1 billion of outstanding variable rate term loan debt from future interest rate volatility. The agreement swaps the greater of a three-month variable LIBOR contract or 1.00% for a fixed annual rate of 2.59%, with an effective date in February 2016 and expiration in February 2019. The Company records changes in fair value in Accumulated other comprehensive income.

In September 2015, the Company entered into an interest rate swap transaction to protect \$1 billion of outstanding variable rate term loan debt from future interest rate volatility. The agreement swapped the greater of a three-month variable LIBOR contract or 1.00% for a fixed annual rate of 1.7185%, with an effective date in December 2015 and expiration in June 2019. The Company records changes in fair value in Accumulated other comprehensive income.

### *Resin Cost Sensitivity*

We are exposed to market risk from changes in plastic resin prices that could impact our results of operations and financial condition. Our plastic resin purchasing strategy is to deal with only high-quality, dependable suppliers. We believe that we have maintained strong relationships with these key suppliers and expect that such relationships will continue into the foreseeable future. However, we can give you no assurances as to such availability or the prices thereof. If the price of resin increased or decreased by 5% it would result in a material change to our financial statements.

**Item 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

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All schedules have been omitted because they are not applicable or not required or because the required information is included in the consolidated financial statements or notes thereto.

**Item 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

**Item 9A. CONTROLS AND PROCEDURES**

*Evaluation of disclosure controls and procedures.*

We maintain "disclosure controls and procedures," as such term is defined in Rule 13a-15(e) under the Exchange Act, that are designed to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure. In designing and evaluating our disclosure controls and procedures, management recognizes that disclosure controls and procedures, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the disclosure controls and procedures are met. Additionally, in designing disclosure controls and procedures, our management was required to apply its judgment in evaluating the cost-benefit relationship of possible disclosure controls and procedures.

In connection with the preparation of our Form 10-K as of and for the fiscal year ended September 26, 2015, we evaluated the effectiveness of the design and operation of our disclosure controls and procedures as of September 26, 2015. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that the Company's disclosure controls and procedures were effective as of September 26, 2015.

*Management's Report on Internal Controls over Financial Reporting*

Management is responsible for establishing and maintaining adequate internal control over financial reporting. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projection of any evaluation of effectiveness to future periods is subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control — Integrated Framework (2013 Framework).

Based upon its assessment, management concluded that as of September 26, 2015, the Company's internal controls over financial reporting were effective. In addition, Ernst & Young LLP as of September 26, 2015, the Company's independent registered public accounting firm, provided an attestation report on the Company's internal control over financial reporting.

*Changes in Internal Controls over Financial Reporting*

No changes in our internal control over financial reporting occurred during the fourth quarter of fiscal 2015 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

In October 2015, we acquired 100% of the capital stock of Avintiv which added 23 facilities, 18 of which are located outside the U.S. Management considers this transaction to be material to the Company's consolidated financial statements and believes that the internal controls and procedures of Avintiv will have a material effect on the Company's internal control over financial reporting. As we work to integrate and combine Avintiv into the Company's existing internal control structure we are evaluating Avintiv's existing internal controls and procedures over financial reporting.

**Item 9B. OTHER INFORMATION**

None.

**PART III**

**Item 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT**

The information required by this Item, with the exception of the Code of Ethics disclosure below, is incorporated herein by reference to our definitive Proxy Statement to be filed in connection with the 2016 Annual Meeting of Stockholders.

**Code of Ethics**

We have a Code of Business Ethics that applies to all directors and employees, including our Chief Executive Officer and senior financial officers. These standards are designed to deter wrongdoing and to promote the highest ethical, moral, and legal conduct of all employees. Our Code of Business Ethics can be obtained, free of charge, by contacting our corporate headquarters or can be obtained from the Corporate Governance section of the Investors page on the Company's internet site.

**Item 11. EXECUTIVE COMPENSATION**

The information required by this Item is incorporated herein by reference to our definitive Proxy Statement to be filed in connection with the 2016 Annual Meeting of Stockholders.

**Item 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

The information required by this Item, is incorporated herein by reference to our definitive Proxy Statement to be filed in connection with the 2016 Annual Meeting of Stockholders.

**Item 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE**

The information required by this Item is incorporated herein by reference to our definitive Proxy Statement to be filed in connection with the 2016 Annual Meeting of Stockholders.

**Item 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

The information required by this Item is incorporated herein by reference to our definitive Proxy Statement to be filed in connection with the 2016 Annual Meeting of Stockholders.



**Item 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

1. Financial Statements

The financial statements listed under Item 8 are filed as part of this report.

2. Financial Statement Schedules

Schedules have been omitted because they are either not applicable or the required information has been disclosed in the financial statements or notes thereto.

3. Exhibits

The exhibits listed on the Exhibit Index immediately following the signature page of this annual report are filed as part of this report.

**Report of Independent Registered Public Accounting Firm**

The Board of Directors and Stockholders

Berry Plastics Group, Inc.

We have audited the accompanying consolidated balance sheets of Berry Plastics Group, Inc. as of September 26, 2015, and September 27, 2014, and the related consolidated statements of income, comprehensive income, stockholders' equity (deficit) and cash flows for each of the three years in the period ended September 26, 2015. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Berry Plastics Group, Inc. at September 26, 2015, and September 27, 2014, and the consolidated results of its operations and its cash flows for each of the three years in the period ended September 26, 2015, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Berry Plastics Group, Inc.'s internal control over financial reporting as of September 26, 2015, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission "(2013 framework)" and our report dated November 23, 2015, expressed an unqualified opinion thereon.

/s/Ernst & Young LLP

Indianapolis, Indiana  
November 23, 2015

**Report of Independent Registered Public Accounting Firm**

The Board of Directors and Stockholders

Berry Plastics Group, Inc.

We have audited Berry Plastics Group, Inc.'s internal control over financial reporting as of September 26, 2015, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission “(2013 framework)” (the COSO criteria). Berry Plastics Group Inc.'s management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Controls over Financial Reporting. Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, Berry Plastics Group, Inc. maintained, in all material respects, effective internal control over financial reporting as of September 26, 2015, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the 2015 consolidated financial statements of Berry Plastics Group, Inc. and our report dated November 23, 2015, expressed an unqualified opinion thereon.

/s/Ernst & Young LLP

Indianapolis, Indiana  
November 23, 2015

**Berry Plastics Group, Inc.**  
**Consolidated Statements of Income**  
(in millions of dollars)

	Fiscal years ended		
	September 26, 2015	September 27, 2014	September 28, 2013
Net sales	\$ 4,881	\$ 4,958	\$ 4,647
Costs and expenses:			
Cost of goods sold	4,012	4,190	3,835
Selling, general and administrative	357	320	307
Amortization of intangibles	91	102	105
Restructuring and impairment charges	13	30	14
Operating income	408	316	386
Debt extinguishment	94	35	64
Other expense (income), net	1	(7)	(7)
Interest expense, net	191	221	244
Income before income taxes	122	67	85
Income tax expense	36	4	28
Consolidated net income	86	63	57
Net income attributable to non-controlling interests	-	1	-
Net income attributable to the Company	\$ 86	\$ 62	\$ 57
Net income per share:			
Basic (see footnote 14)	\$ 0.72	\$ 0.53	\$ 0.50
Diluted (see footnote 14)	\$ 0.70	\$ 0.51	\$ 0.48

**Berry Plastics Group, Inc.**  
**Consolidated Statements of Comprehensive Income**  
(in millions of dollars)

	Fiscal years ended		
	September 26, 2015	September 27, 2014	September 28, 2013
Consolidated net income	\$ 86	\$ 63	\$ 57
Currency translation	(45)	(16)	(5)
Interest rate hedges	(33)	(3)	20
Defined benefit pension and retiree health benefit plans	(16)	(11)	34
Provision for income taxes related to other comprehensive income items	18	5	(20)
Comprehensive income	10	38	86
Comprehensive income attributable to non-controlling interests	-	1	-
Comprehensive income attributable to the Company	\$ 10	\$ 37	\$ 86

See notes to consolidated financial statements.

**Berry Plastics Group, Inc.**  
**Consolidated Balance Sheets**  
(in millions of dollars)

	September 26, 2015	September 27, 2014
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 228	\$ 129
Accounts receivable, net	434	491
Inventories	522	604
Deferred income taxes	162	166
Prepaid expenses and other current assets	37	42
Total current assets	1,383	1,432
Property, plant and equipment, net	1,294	1,364
Goodwill, intangible assets and deferred costs, net	2,349	2,455
Other assets	2	1
Total assets	\$ 5,028	\$ 5,252
<b>Liabilities and stockholders' equity (deficit)</b>		
Current liabilities:		
Accounts payable	\$ 330	\$ 395
Accrued expenses and other current liabilities	338	314
Current portion of long-term debt	37	58
Total current liabilities	705	767
Long-term debt, less current portion	3,648	3,844
Deferred income taxes	387	386
Other long-term liabilities	341	356
Total liabilities	5,081	5,353
Commitments and contingencies		
Redeemable non-controlling interest	12	13
Stockholders' equity (deficit):		
Common stock: (119.9 and 118.0 shares issued, respectively)	1	1
Additional paid-in capital	406	367
Non-controlling interest	3	3
Accumulated deficit	(356)	(442)
Accumulated other comprehensive loss	(119)	(43)
Total stockholders' equity (deficit)	(65)	(114)
Total liabilities and stockholders' equity (deficit)	\$ 5,028	\$ 5,252

See notes to consolidated financial statements.

**Berry Plastics Group, Inc.**  
**Consolidated Statements of Changes in Stockholders' Equity (Deficit)**  
(in millions of dollars)

	Common Stock	Additional Paid-in Capital	Notes Receivable-Common Stock	Non Controlling Interest	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total
Balance at September 29, 2012	\$ 1	\$ 131	\$ (2)	\$ 3	\$ (47)	\$ (561)	\$ (475)
Stock compensation expense	-	16	-	-	-	-	16
Repayment of note receivable	-	-	2	-	-	-	2
Proceeds from issuance of common stock	-	27	-	-	-	-	27
Termination of redeemable shares	-	23	-	-	-	-	23
Proceeds from initial public offering	-	438	-	-	-	-	438
Obligation under tax receivable agreement	-	(313)	-	-	-	-	(313)
Interest rate hedge, net of tax	-	-	-	-	10	-	10
Net income attributable to the Company	-	-	-	-	-	57	57
Currency translation	-	-	-	-	(5)	-	(5)
Defined benefit pension and retiree health benefit plans, net of tax	-	-	-	-	21	-	21
Derivative amortization, net of tax	-	-	-	-	3	-	3
Balance at September 28, 2013	\$ 1	\$ 322	\$ -	\$ 3	\$ (18)	\$ (504)	\$ (196)
Stock compensation expense	-	15	-	-	-	-	15
Proceeds from issuance of common stock	-	17	-	-	-	-	17
Obligation under tax receivable agreement	-	13	-	-	-	-	13
Interest rate hedge, net of tax	-	-	-	-	(2)	-	(2)
Net income attributable to the Company	-	-	-	-	-	62	62
Currency translation	-	-	-	-	(16)	-	(16)
Defined benefit pension and retiree health benefit plans, net of tax	-	-	-	-	(7)	-	(7)
Balance at September 27, 2014	\$ 1	\$ 367	\$ -	\$ 3	\$ (43)	\$ (442)	\$ (114)
Stock compensation expense	-	21	-	-	-	-	21
Proceeds from issuance of common stock	-	18	-	-	-	-	18
Interest rate hedge, net of tax	-	-	-	-	(21)	-	(21)
Net income attributable to the Company	-	-	-	-	-	86	86
Currency translation	-	-	-	-	(45)	-	(45)
Defined benefit pension and retiree health benefit plans, net of tax	-	-	-	-	(10)	-	(10)
Balance at September 26, 2015	<u>\$ 1</u>	<u>\$ 406</u>	<u>\$ -</u>	<u>\$ 3</u>	<u>\$ (119)</u>	<u>\$ (356)</u>	<u>\$ (65)</u>

See notes to consolidated financial statements.

**Berry Plastics Group, Inc.**  
**Consolidated Statements of Cash Flows**  
(in millions of dollars)

	Fiscal years ended		
	September 26, 2015	September 27, 2014	September 28, 2013
<b>Cash Flows from Operating Activities:</b>			
Consolidated net income	\$ 86	\$ 63	\$ 57
Net income attributable to non-controlling interests	-	1	-
Net income attributable to the Company	<u>\$ 86</u>	<u>\$ 62</u>	<u>\$ 57</u>
<b>Adjustments to reconcile net cash from operating activities:</b>			
Depreciation	259	256	236
Amortization of intangibles	91	102	105
Non-cash interest expense	6	7	14
Debt extinguishment	94	35	64
Settlement of interest rate hedge	-	-	16
Stock compensation expense	21	15	16
Deferred income tax	26	(4)	22
Impairment of long-lived assets	2	7	6
Other non-cash items	-	(3)	(6)
<b>Changes in operating assets and liabilities:</b>			
Accounts receivable, net	46	5	3
Inventories	74	19	(43)
Prepaid expenses and other assets	(8)	(1)	15
Accounts payable and other liabilities	(60)	30	(41)
Net cash from operating activities	<u>637</u>	<u>530</u>	<u>464</u>
<b>Cash Flows from Investing Activities:</b>			
Additions to property, plant and equipment	(180)	(215)	(239)
Proceeds from sale of assets	18	19	18
Acquisitions of business, net of cash acquired	(3)	(226)	(24)
Net cash from investing activities	<u>(165)</u>	<u>(422)</u>	<u>(245)</u>
<b>Cash Flows from Financing Activities:</b>			
Proceeds from long-term borrowings	693	1,627	1,391
Repayment of long-term borrowings	(951)	(1,687)	(1,978)
Proceeds from issuance of common stock	18	17	27
Payment of tax receivable agreement	(39)	(32)	(5)
Proceeds from initial public offering	-	-	438
Repayment of notes receivable	-	-	2
Debt financing costs	(86)	(44)	(39)
Net cash from financing activities	<u>(365)</u>	<u>(119)</u>	<u>(164)</u>
Effect of currency translation on cash	(8)	(2)	-
Net change in cash and cash equivalents	99	(13)	55
Cash and cash equivalents at beginning of period	129	142	87
Cash and cash equivalents at end of period	<u>\$ 228</u>	<u>\$ 129</u>	<u>\$ 142</u>

See notes to consolidated financial statements.

**Berry Plastics Group, Inc.**  
**Notes to Consolidated Financial Statements**  
(in millions of dollars, except as otherwise noted)

**1. Basis of Presentation and Summary of Significant Accounting Policies**

**Background**

Berry Plastics Group, Inc. (“Berry” or the “Company”) is a leading provider of value-added plastic consumer packaging and engineered materials with a track record of delivering high-quality customized solutions to our customers. Representative examples of our products include specialty closures, prescription vials, specialty films, adhesives, corrosion protection materials, as well as drink cups, thin-wall containers, and bottles. We sell our products predominantly into stable, consumer-oriented end-markets, such as healthcare, personal care, and food and beverage.

**Basis of Presentation**

Periods presented in these financial statements include fiscal periods ending September 26, 2015 (“fiscal 2015”), September 27, 2014 (“fiscal 2014”), and September 28, 2013 (“fiscal 2013”). Berry, through its wholly-owned subsidiaries operates in four primary segments: Rigid Open Top, Rigid Closed Top, Engineered Materials, and Flexible Packaging. The Company’s customers are located principally throughout the United States, without significant concentration with any one customer. The Company performs periodic credit evaluations of its customers’ financial condition and generally does not require collateral. The Company’s fiscal year is based on fifty two week periods. The Company has evaluated subsequent events through the date the financial statements were issued.

The consolidated financial statements include the accounts of Berry and its subsidiaries, all of which includes our wholly owned and majority owned subsidiaries. Intercompany accounts and transactions have been eliminated in consolidation. Where our ownership of consolidated subsidiaries is less than 100% the non-controlling interests are reflected in Non-controlling interest and Redeemable non-controlling interests.

**Revenue Recognition**

Revenue from the sales of products is recognized at the time title and risks and rewards of ownership pass to the customer, there is persuasive evidence of an arrangement, the sales price is fixed and determinable and collection is reasonably assured. Provisions for certain rebates, sales incentives, trade promotions, coupons, product returns and discounts to customers are accounted for as reductions in gross sales to arrive at net sales. In accordance with the Revenue Recognition standards of the Accounting Standards Codification (“Codification” or “ASC”), the Company provides for these items as reductions of revenue at the later of the date of the sale or the date the incentive is offered. These provisions are based on estimates derived from current program requirements and historical experience.

Shipping, handling, purchasing, receiving, inspecting, warehousing, and other costs of distribution are presented in Cost of goods sold in the Consolidated Statements of Income. The Company classifies amounts charged to its customers for shipping and handling in Net sales in the Consolidated Statements of Income.

**Purchases of Raw Materials and Concentration of Risk**

The largest supplier of the Company’s total resin material requirements represented approximately 21% of purchases in fiscal 2015. The Company uses a variety of suppliers to meet its resin requirements.

**Research and Development**

Research and development costs are expensed when incurred. The Company incurred research and development expenditures of \$33 million, \$32 million, and \$28 million in fiscal 2015, 2014, and 2013, respectively.

**Stock-Based Compensation**

The compensation guidance of the FASB requires that the compensation cost relating to share-based payment transactions be recognized in financial statements based on alternative fair value models. The share-based compensation cost is measured based on the fair value of the equity or liability instruments issued. The Company’s share-based compensation plan is more fully described in Note 12. The Company recorded total stock compensation expense of \$21 million, \$15 million, and \$16 million for fiscal 2015, 2014 and 2013, respectively.



In August 2013, the Company recorded an \$8 million stock compensation charge related to certain modifications to prior Berry Plastics Incentive Plans, and amended outstanding non-qualified stock option agreements to reflect such modifications.

The Company utilizes the Black-Scholes option valuation model for estimating the fair value of the stock options. The model allows for the use of a range of assumptions. Expected volatilities utilized in the Black-Scholes model are based on implied volatilities from traded stocks of peer companies. Similarly, the dividend yield is based on historical experience and the estimate of future dividend yields. The risk-free interest rate is derived from the U.S. Treasury yield curve in effect at the time of grant. The Company's options have a ten year contractual life. For purposes of the valuation model in fiscal years 2015, 2014, and 2013, the Company used the simplified method for determining the granted options expected lives. The fair value for options granted has been estimated at the date of grant using a Black-Scholes model, with the following weighted average assumptions:

	Fiscal year		
	2015	2014	2013
Risk-free interest rate	1.6%	1.3%	0.6%
Dividend yield	0.0%	0.0%	0.0%
Volatility factor	.30	.33	.38
Expected option life	7 years	7 years	7 years

#### Foreign Currency

For the non-U.S. subsidiaries that account in a functional currency other than U.S. Dollars, assets and liabilities are translated into U.S. Dollars using period-end exchange rates. Sales and expenses are translated at the average exchange rates in effect during the period. Foreign currency translation gains and losses are included as a component of Accumulated other comprehensive income (loss) within stockholders' equity (deficit). Gains and losses resulting from foreign currency transactions are included in the Consolidated Statements of Income.

#### Cash and Cash Equivalents

All highly liquid investments purchased with a maturity of three months or less from the time of purchase are considered to be cash equivalents.

#### Allowance for Doubtful Accounts

The Company's accounts receivable and related allowance for doubtful accounts are analyzed in detail on a quarterly basis and all significant customers with delinquent balances are reviewed to determine future collectability. The determinations are based on legal issues (such as bankruptcy status), past history, current financial and credit agency reports, and the experience of the credit representatives. Reserves are established in the quarter in which the Company makes the determination that the account is deemed uncollectible. The Company maintains additional reserves based on its historical bad debt experience. The following table summarizes the activity for fiscal years ended for the allowance for doubtful accounts:

	2015	2014	2013
Allowance for doubtful accounts, beginning	\$ 3	\$ 3	\$ 3
Bad debt expense	2	-	1
Write-offs against allowance	(2)	-	(1)
Allowance for doubtful accounts, ending	\$ 3	\$ 3	\$ 3

#### Inventories

Inventories are stated at the lower of cost or market and are valued using the first-in, first-out method. Management periodically reviews inventory balances, using recent and future expected sales to identify slow-moving and/or obsolete items. The cost of spare parts is charged to cost of goods sold when purchased. We evaluate our reserve for inventory obsolescence on a quarterly basis and review inventory on-hand to determine future salability. We base our determinations on the age of the inventory and the experience of our personnel. We reserve inventory that we deem to be not salable in the quarter in which we make the determination. We believe, based on past history and our policies and procedures, that our net inventory is salable. Our inventory reserves were \$20 million and \$19 million as of fiscal 2015 and fiscal 2014, respectively. Inventory as of fiscal 2015 and 2014 was:

Inventories:	2015	2014
Finished goods	\$ 309	\$ 353
Raw materials	213	251
	<u>\$ 522</u>	<u>\$ 604</u>

### Property, Plant and Equipment

Property, plant and equipment are stated at cost. Depreciation is computed primarily by the straight-line method over the estimated useful lives of the assets ranging from 15 to 25 years for buildings and improvements, 2 to 10 years for machinery, equipment, and tooling and over the term of the agreement for capital leases. Leasehold improvements are depreciated over the shorter of the useful life of the improvement or the lease term. Repairs and maintenance costs are charged to expense as incurred. The Company capitalized interest of \$6 million, \$6 million, and \$5 million in fiscal 2015, 2014, and 2013, respectively. Property, plant and equipment as of fiscal 2015 and 2014 was:

Property, plant and equipment:	2015	2014
Land, buildings and improvements	\$ 367	\$ 363
Equipment and construction in progress	2,618	2,509
	<u>2,985</u>	<u>2,872</u>
Less accumulated depreciation	(1,691)	(1,508)
	<u>\$ 1,294</u>	<u>\$ 1,364</u>

### Long-lived Assets

Long-lived assets, including property, plant and equipment and definite lived intangible assets are reviewed for impairment in accordance with the Property, plant and equipment standard of the ASC whenever facts and circumstances indicate that the carrying amount may not be recoverable. Specifically, this process involves comparing an asset's carrying value to the estimated undiscounted future cash flows the asset is expected to generate over its remaining life. If this process were to result in the conclusion that the carrying value of a long-lived asset would not be recoverable, a write-down of the asset to fair value would be recorded through a charge to operations. Fair value is determined based upon discounted cash flows or appraisals as appropriate. Long-lived assets that are held for sale are reported at the lower of the assets' carrying amount or fair value less costs related to the assets' disposition. We recorded impairment charges totaling \$2 million, \$7 million, and \$5 million to write-down long-lived assets to their net realizable values during fiscal years 2015, 2014, and 2013 respectively.

### Goodwill

The Company follows the principles provided by the Goodwill and Other Intangibles standard of the ASC. Goodwill is not amortized but rather tested annually for impairment. The Company performs their annual impairment assessment on the first day of the fourth quarter in each respective fiscal year. The Company has recognized cumulative charges for goodwill impairment of \$165 million which occurred in fiscal 2011. For purposes of conducting our annual goodwill impairment test, the Company determined that we have six reporting units, Open Top, Rigid Closed Top, Engineered Films, Flexible Packaging, International and Tapes. We determined that each of the components within our respective reporting units should be aggregated. We reached this conclusion because within each of our reporting units, we have similar products, management oversight, production processes and markets served which allow us to share assets and resources across the product lines. We regularly re-align our production equipment and manufacturing facilities in order to take advantage of cost savings opportunities, obtain synergies and create manufacturing efficiencies. In addition, we utilize our research and development centers, design center, tool shops, and graphics center which all provide benefits to each of the reporting units and work on new products that can benefit multiple product lines. We also believe that the goodwill is recoverable from the overall operations of the unit given the similarity in production processes, synergies from leveraging the combined resources, common raw materials, common research and development, similar margins and similar distribution methodologies. In fiscal year 2015, the Company applied the qualitative assessment and determined that it is more likely than not that the fair value of the reporting unit exceeded the carrying amount of each of their reporting units. The Company reached this conclusion based on the increased valuations within the packaging industry and projected future operating results and an increase in the Company's common stock price, market capitalization and total enterprise value. In fiscal 2014, the Company applied the qualitative assessment to determine whether it is more likely than not that the fair value of the reporting unit may be less than the carrying amount, and concluded that it was more likely than not that the fair value of each reporting unit exceeded the carrying amount except for the Rigid Open Top reporting unit due to the decline in that unit's operating income. The Company completed step 1 in Fiscal 2014 of the impairment test which indicated no impairment existed for Rigid Open Top. In fiscal 2013, the Company applied the qualitative assessment to determine whether it is more likely than not that the fair value of the reporting unit may be less than the carrying amount and determined that no impairment was indicated and therefore did not perform a two-step impairment test.

The changes in the carrying amount of goodwill by reportable segment are as follows:

	<b>Rigid Open Top</b>	<b>Rigid Closed Top</b>	<b>Engineered Materials</b>	<b>Flexible Packaging</b>	<b>Total</b>
Balance as of fiscal 2013	\$ 681	\$ 831	\$ 73	\$ 49	\$ 1,634
Foreign currency translation adjustment	-	(2)	(2)	-	(4)
Acquisitions (realignment), net	-	(2)	-	31	29
Balance as of fiscal 2014	\$ 681	\$ 827	\$ 71	\$ 80	\$ 1,659
Foreign currency translation adjustment	-	(5)	(2)	(2)	(9)
Acquisitions, net	-	1	-	1	2
Balance as of fiscal 2015	\$ 681	\$ 823	\$ 69	\$ 79	\$ 1,652

#### Deferred Financing Fees

Deferred financing fees are amortized to interest expense using the effective interest method over the lives of the respective debt agreements. Pursuant to ASC 835-30 the Company presents \$5 million of its debt issuance costs on the balance sheet as a deduction from the carrying amount of the related debt liability instead of a deferred charge. In addition, the remaining \$4 million of deferred charges, which relate to the Company's revolving line of credit, are presented in Goodwill, intangible assets and deferred costs, net.

#### Intangible Assets

Customer relationships are being amortized using an accelerated amortization method which corresponds with the customer attrition rates used in the initial valuation of the intangibles over the estimated life of the relationships which range from 11 to 20 years. Trademarks that are expected to remain in use, which are indefinite lived intangible assets, are required to be reviewed for impairment annually. Technology intangibles are being amortized using the straight-line method over the estimated life of the technology which is 11 years. License intangibles are being amortized using the straight-line method over the life of the license which is 10 years. Patent intangibles are being amortized using the straight-line method over the shorter of the estimated life of the technology or the patent expiration date ranging from 10 to 20 years, with a weighted-average life of 15 years. The Company evaluates the remaining useful life of intangible assets on a periodic basis to determine whether events and circumstances warrant a revision to the remaining useful life. We completed the annual impairment test of our indefinite lived trade names and noted no impairment.

	<b>Customer Relationships</b>	<b>Trademarks</b>	<b>Other Intangibles</b>	<b>Accumulated Amortization</b>	<b>Total</b>
Balance as of fiscal 2013	\$ 1,134	\$ 283	\$ 107	\$ (668)	\$ 856
Adjustment for income taxes	(2)	-	(1)	-	(3)
Foreign currency translation adjustment	(3)	(1)	(2)	4	(2)
Amortization expense	-	-	-	(102)	(102)
Acquisition intangibles	38	-	5	-	43
Balance as of fiscal 2014	\$ 1,167	\$ 282	\$ 109	\$ (766)	\$ 792
Adjustment for income taxes	(3)	-	-	-	(3)
Foreign currency translation adjustment	(6)	(1)	(3)	4	(6)
Amortization expense	-	-	-	(91)	(91)
Acquisition intangibles	1	-	-	-	1
Balance as of fiscal 2015	\$ 1,159	\$ 281	\$ 106	\$ (853)	\$ 693

## Insurable Liabilities

The Company records liabilities for the self-insured portion of workers' compensation, health, product, general and auto liabilities. The determination of these liabilities and related expenses is dependent on claims experience. For most of these liabilities, claims incurred but not yet reported are estimated based upon historical claims experience.

## Income Taxes

The Company accounts for income taxes under the asset and liability approach, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequence of events that have been recognized in the Company's financial statements or income tax returns. Income taxes are recognized during the period in which the underlying transactions are recorded. Deferred taxes, with the exception of non-deductible goodwill, are provided for temporary differences between amounts of assets and liabilities as recorded for financial reporting purposes and such amounts as measured by tax laws. If the Company determines that a deferred tax asset arising from temporary differences is not likely to be utilized, the Company will establish a valuation allowance against that asset to record it at its expected realizable value. The Company recognizes uncertain tax positions when it is more likely than not that the tax position will be sustained upon examination by relevant taxing authorities, based on the technical merits of the position. The amount recognized is measured as the largest amount of benefit that is greater than 50% likely of being realized upon ultimate settlement. The Company's effective tax rate is dependent on many factors including: the impact of enacted tax laws in jurisdictions in which the Company operates; the amount of earnings by jurisdiction, due to varying tax rates in each country; and the Company's ability to utilize foreign tax credits related to foreign taxes paid on foreign earnings that will be remitted to the United States.

## Comprehensive Income (Loss)

Comprehensive income (loss) is comprised of net income (loss) and other comprehensive income (loss). Other comprehensive losses include net unrealized gains or losses resulting from currency translations of foreign subsidiaries, changes in the value of our derivative instruments and adjustments to the pension liability.

The accumulated balances related to each component of other comprehensive income (loss) were as follows (amounts below are net of taxes):

	Currency Translation	Defined Benefit Pension and Retiree Health Benefit Plans	Interest Rate Hedges	Accumulated Other Comprehensive Loss
Balance as of fiscal 2012	\$ (15)	\$ (29)	\$ (3)	\$ (47)
Other comprehensive income (loss)	(5)	34	20	49
Provision for income taxes	-	(13)	(7)	(20)
Balance as of fiscal 2013	\$ (20)	\$ (8)	\$ 10	\$ (18)
Other comprehensive loss	(16)	(11)	(3)	(30)
Provision for income taxes	-	4	1	5
Balance as of fiscal 2014	\$ (36)	\$ (15)	\$ 8	\$ (43)
Other comprehensive loss	(45)	(16)	(33)	(94)
Provision for income taxes	-	6	12	18
Balance as of fiscal 2015	\$ (81)	\$ (25)	\$ (13)	\$ (119)

## Accrued Rebates

The Company offers various rebates to customers based on purchases. These rebate programs are individually negotiated with customers and contain a variety of different terms and conditions. Certain rebates are calculated as flat percentages of purchases, while others included tiered volume incentives. These rebates may be payable monthly, quarterly, or annually. The calculation of the accrued rebate balance involves significant management estimates, especially where the terms of the rebate involve tiered volume levels that require estimates of expected annual sales. These provisions are based on estimates derived from current program requirements and historical experience. The accrual for customer rebates was \$53 million and \$50 million at the end of fiscal 2015 and 2014, respectively and is included in Accrued expenses and other current liabilities.

## Pension

Pension benefit costs include assumptions for the discount rate, retirement age, and expected return on plan assets. Retiree medical plan costs include assumptions for the discount rate, retirement age, and health-care-cost trend rates. Periodically, the Company evaluates the discount rate and the expected return on plan assets in its defined benefit pension and retiree health benefit plans. In evaluating these assumptions, the Company considers many factors, including an evaluation of the discount rates, expected return on plan assets and the health-care-cost trend rates of other companies; historical assumptions compared with actual results; an analysis of current market conditions and asset allocations; and the views of advisers.

## Net Income Per Share

The Company calculates basic net income per share based on the weighted-average number of outstanding common shares. The Company calculates diluted net income per share based on the weighted-average number of outstanding common shares plus the effect of dilutive securities.

## Use of Estimates

The preparation of the financial statements in conformity with U.S. generally accepted accounting principles requires management to make extensive use of estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities and the reported amounts of sales and expenses. Actual results could differ materially from these estimates. Changes in estimates are recorded in results of operations in the period that the event or circumstances giving rise to such changes occur.

## Recently Issued Accounting Pronouncements

### *Income Taxes*

In July 2013, the FASB issued Accounting Standards Update No. 2013-11: Income Taxes (Topic 740), Presentation of an Unrecognized Tax Benefit When a Net Operating Loss Carryforward, a Similar Tax Loss, or a Tax Credit Carryforward Exists (a consensus of the FASB Emerging Issues Task Force) (“ASU 2013-11”). An entity is required to present unrecognized tax benefits as a decrease in a net operating loss, similar tax loss or tax credit carryforward if certain criteria are met. The determination of whether a deferred tax asset is available is based on the unrecognized tax benefit and the deferred tax asset that exists at the reporting date and presumes disallowance of the tax position at the reporting date. The guidance will eliminate the diversity in practice in the presentation of unrecognized tax benefits but will not alter the way in which entities assess deferred tax assets for realizability. The adoption of ASU 2013-11 did not have an impact on the Company’s consolidated financial statements.

### *Revenue Recognition*

In May 2014, the Financial Accounting Standards Board (FASB) issued a final standard on revenue recognition. Under the new standard, an entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. In order to do so, an entity would follow the five-step process for in-scope transactions: 1) identify the contract with a customer, 2) identify the separate performance obligations in the contract, 3) determine the transaction price, 4) allocate the transaction price to the separate performance obligations in the contract, and 5) recognize revenue when (or as) the entity satisfies a performance obligation. For public entities, the provisions of the new standard are effective for annual reporting periods beginning after December 15, 2017 and interim periods therein. Early adoption for annual reporting periods beginning after December 15, 2016 is permitted. An entity can apply the new revenue standard retrospectively to each prior reporting period presented or retrospectively with the cumulative effect of initially applying the standard recognized at the date of initial application in retained earnings. There are areas within the standard that are currently under review and reconsideration by the FASB, which could lead to future updates to the standard. As the outcomes of this process could lead to changes to the standard, we are still in the process of determining our approach to the adoption of this new standard, and the anticipated impact to the consolidated financial statements.

### *Classification of Debt Issuance Costs*

In April 2015, the FASB issued Accounting Standards Update No. 2015-03, Interest - Imputation of Interest (Subtopic 835-30): Simplifying the Presentation of Debt Issuance Costs. This standard amends existing guidance to require the presentation of debt issuance costs in the balance sheet as a deduction from the carrying amount of the related debt liability instead of a deferred charge. It is effective for annual reporting periods beginning after December 15, 2015, but early adoption is permitted. The Company has elected to early adopt this guidance. The effects of the adoption for fiscal years ended September 26, 2015 and September 27, 2014, were a \$5 million and \$16 million, respectively, reduction of Goodwill, intangible assets, and deferred costs, net and Long-term debt, less current portion on the consolidated balance sheets by amounts classified as deferred costs.

### *Inventory*

In July 2015, the FASB issued ASU 2015-11, *Simplifying the Measurement of Inventory* to simplify the guidance on the subsequent measurement of inventory, excluding inventory measured using last-in, first out or the retail inventory method. Under the new standard, inventory should be at the lower of cost and net realizable value. The new accounting guidance is effective for interim and annual periods beginning after December 15, 2016 with early adoption permitted. We are evaluating the effect this guidance will have on our consolidated financial statements and related disclosures, but do not expect the standard to have a material effect on our financial statements.

### *Business Combinations*

In September 2015, the FASB issued ASU 2015-16, *Business Combinations (Topic 805)- Simplifying the accounting for Measurement-Period Adjustments* requires that the cumulative impact of a measurement period adjustment (including the impact on prior periods) be recognized in the reporting period in which the adjustment is identified. Entities should present separately on the face of the income statement or disclose in the footnotes the portion of the measurement period adjustment recorded in current-period earnings by line item that would have been recorded in previous reporting periods if the adjustment had been recognized as of the acquisition date. The new guidance is effective for interim and annual periods beginning after December 15, 2015 with early adoption permitted. We are evaluating the effect this guidance will have on our consolidated financial statements and related disclosures, but do not expect the standard to have a material effect on our financial statements.

## 2. Acquisition

### *Graphic Flexible Packaging LLC’s Flexible Plastics and Films*

In September 2013, the Company acquired Graphic Flexible Packaging LLC’s flexible plastics and films business (“Graphic Plastics”) for a purchase price of \$61 million, net of cash acquired. Graphic Plastics is a producer of wraps, films, pouches, and bags for the food, medical, industrial, personal care, and pet food markets. The Graphic Plastics business is operated in the Company’s Flexible Packaging segment. To finance the purchase, the Company used existing liquidity. The Graphic Plastics acquisition has been accounted for under the purchase method of accounting, and accordingly, the purchase price has been allocated to the identifiable assets and liabilities based on estimated fair values at the acquisition date. The acquired assets and assumed liabilities consisted of working capital of \$8 million, property and equipment of \$18 million, intangible assets of \$25 million, goodwill of \$14 million and other long-term liabilities of \$4 million.

In January 2014, the Company acquired the controlling interest (75%) of Qingdao P&B Co., Ltd (“P&B”) for a purchase price of \$35 million, net of cash acquired. P&B utilizes thermoform, injection, and automated assembly manufacturing processes to produce products for multiple markets across China as well as globally, most predominately serving the food and personal care markets. P&B is operated in the Flexible Packaging segment. To finance the purchase, the Company used existing liquidity. The P&B acquisition has been accounted for under the purchase method of accounting, and accordingly, the purchase price has been allocated to the identifiable assets and liabilities based on estimated fair values at the acquisition date. As part of the P&B acquisition, the non-controlling interest holder has a put option, and the Company has a call option on the remaining 25% interest in P&B that becomes effective three years from the date of purchase. Upon execution of the put or call option, the purchase price for the remaining equity interest will be determined based on the fair value at the date of execution. The non-controlling interest of P&B is recorded in Redeemable non-controlling interest and will be carried at fair value with adjustments in the fair value being recorded in Additional paid-in capital. The acquired assets and assumed liabilities consisted of working capital of \$9 million, property and equipment of \$24 million, intangible assets of \$11 million, goodwill of \$10 million, other long-term liabilities of \$4 million and Redeemable non-controlling interest of \$13 million.

#### Rexam Healthcare Containers and Closures

In June 2014, the Company acquired Rexam’s Healthcare Containers and Closures business (“C&C”) for a purchase price of \$133 million, net of cash acquired. The C&C business produces bottles, closures and specialty products for pharmaceutical and over-the-counter applications. Facilities located in the United States are operated in the Rigid Closed Top segment, and locations outside the United States are operated in the Flexible Packaging segment. To finance the purchase, the Company used existing liquidity. The C&C acquisition has been accounted for under the purchase method of accounting, and accordingly, the purchase price has been allocated to the identifiable assets and liabilities based on estimated fair values at the acquisition date. The acquired assets and assumed liabilities consisted of working capital of \$32 million, property and equipment of \$85 million, non-current deferred tax asset of \$3 million, intangible assets of \$9 million, goodwill of \$7 million, and other long-term liabilities of \$3 million.

### 3. Long-Term Debt

#### Revolving Line of Credit

In May 2015, the Company amended the credit agreement relating to its existing \$650 million secured revolving credit facility to extend the maturity date of the revolving credit facility from June 2016 to May 2020 and to reduce interest margins and certain commitment fees.

#### 5<sup>1</sup>/<sub>8</sub>% Second Priority Senior Secured Notes

In June 2015, the Company issued \$700 million of 5<sup>1</sup>/<sub>8</sub>% second priority senior secured notes due July 2023. Interest on the 5<sup>1</sup>/<sub>8</sub>% second priority senior secured notes is due semi-annually on January 15 and July 15. Proceeds from the issuance and existing liquidity were used to satisfy and discharge all of the outstanding 9<sup>3</sup>/<sub>4</sub>% second priority senior secured notes. The Company recognized a \$94 million loss on extinguishment of debt, including \$83 million of early tender and redemption costs and an \$11 million write-off of deferred financing fees.

Long-term debt consists of the following:

	Maturity Date	September 26, 2015	September 27, 2014
Term loan	February 2020	\$ 1,369	\$ 1,383
Term loan	January 2021	1,019	1,122
Revolving line of credit	May 2020	—	—
5 <sup>1</sup> / <sub>8</sub> % Second Priority Senior Secured Notes	July 2023	700	—
5 <sup>1</sup> / <sub>2</sub> % Second Priority Senior Secured Notes	May 2022	500	500
9 <sup>3</sup> / <sub>4</sub> % Second Priority Senior Secured Notes	Retired	—	800
Debt discounts and deferred fees		(29)	(36)
Capital leases and other	Various	126	133
Total long-term debt		3,685	3,902
Current portion of long-term debt		(37)	(58)
Long-term debt, less current portion		\$ 3,648	\$ 3,844

#### Berry Plastics Corporation Senior Secured Credit Facility

Our wholly owned subsidiary Berry Plastics Corporation’s senior secured credit facilities consist of \$2.4 billion of term loans and a \$650 million asset-based revolving line of credit. The availability under the revolving line of credit is the lesser of \$650 million or based on a defined borrowing base which is calculated based on available accounts receivable and inventory.

The borrowings under the senior secured credit facilities bear interest at a rate equal to an applicable margin plus, as determined at the Company’s option, either (a) a base rate determined by reference to the higher of (1) the prime rate of Credit Suisse, Cayman Islands Branch, as administrative agent, in the case of the term loan facility or Bank of America, N.A., as administrative agent, in the case of the revolving credit facility and (2) the U.S. federal funds rate plus 1/2 of 1% or (b) LIBOR determined by reference to the costs of funds for eurodollar deposits in dollars in the London interbank market for the interest period relevant to such borrowing Bank Compliance for certain additional costs. The applicable margin for LIBOR rate borrowings under the revolving credit facility range from 1.25% to 1.75%, term loan maturing in January 2021 is 2.75% annum with a LIBOR floor of 1.00% and the term loan maturing in February 2020 is 2.50% per annum with a LIBOR floor of 1.00%.

In addition to paying interest on outstanding principal under the senior secured credit facilities, the Company is required to pay a commitment fee to the lenders under the revolving credit facilities in respect of the unutilized commitments thereunder at a rate equal to 0.25% to 0.325% per annum depending on the average daily available unused borrowing capacity. The Company also pays a customary letter of credit fee, including a fronting fee of 0.125% per annum of the stated amount of each outstanding letter of credit, and customary agency fees.

The term loan facility requires minimum quarterly principal payments of \$4 million, with the remaining amount payable upon maturity. The Company may voluntarily repay outstanding loans under the senior secured credit facilities at any time without premium or penalty, other than customary "breakage" costs with respect to eurodollar loans. In October 2014, the Company elected to make a voluntary one-time \$100 million principal payment on the \$1 billion outstanding term loan, using existing liquidity. The senior secured credit facilities contain various restrictive covenants that, among other things and subject to specified exceptions, prohibit the Company from prepaying other indebtedness, and restrict its ability to incur indebtedness or liens, make investments or declare or pay any dividends. All obligations under the senior secured credit facilities are unconditionally guaranteed by the Company and, subject to certain exceptions, each of the Company's existing and future direct and indirect domestic subsidiaries. The guarantees of those obligations are secured by substantially all of the Company's assets as well as those of each domestic subsidiary guarantor.

Our fixed charge coverage ratio, as defined in the revolving credit facility, is calculated based on a numerator consisting of adjusted EBITDA less pro forma adjustments, income taxes paid in cash and capital expenditures, and a denominator consisting of scheduled principal payments in respect of indebtedness for borrowed money, interest expense and certain distributions. We are obligated to sustain a minimum fixed charge coverage ratio of 1.0 to 1.0 under the revolving credit facility at any time when the aggregate unused capacity under the revolving credit facility is less than 10% of the lesser of the revolving credit facility commitments and the borrowing base (and for 10 business days following the date upon which availability exceeds such threshold) or during the continuation of an event of default. At the end of fiscal 2015, the Company had unused borrowing capacity of \$471 million under the revolving credit facility and thus was not subject to the minimum fixed charge coverage ratio covenant. Our fixed charge ratio was 2.9 to 1.0 at the end of fiscal 2015.

Despite not having financial maintenance covenants, our debt agreements contain certain negative covenants. The failure to comply with these negative covenants could restrict our ability to incur additional indebtedness, effect acquisitions, enter into certain significant business combinations, make distributions or redeem indebtedness. The term loan facility contains a negative covenant first lien secured leverage ratio covenant of 4.0 to 1.0 on a pro forma basis for a proposed transaction, such as an acquisition or incurrence of additional first lien debt. Our first lien secured leverage ratio was 2.8 to 1.0 at the end of fiscal 2015.

Future maturities of long-term debt as of fiscal year end 2015 are as follows:

Fiscal Year	Maturities
2016	\$ 37
2017	35
2018	35
2019	33
2020	1,332
Thereafter	2,242
	<u>\$ 3,714</u>

Interest paid was \$191 million, \$214 million, and \$245 million in fiscal 2015, 2014, and 2013, respectively.

#### 4. Financial Instruments and Fair Value Measurements

As part of the overall risk management, the Company uses derivative instruments to reduce exposure to changes in interest rates attributed to the Company's floating-rate borrowings. For those derivative instruments that are designated and qualify as hedging instruments, the Company must designate the hedging instrument, based upon the exposure being hedged, as a fair value hedge, cash flow hedge, or a hedge of a net investment in a foreign operation. To the extent hedging relationships are found to be effective, as determined by FASB guidance, changes in fair value of the derivatives are offset by changes in the fair value of the related hedged item are recorded to Accumulated other comprehensive loss. Management believes hedge effectiveness is evaluated properly in preparation of the financial statements and did not identify any hedge ineffectiveness related to the interest rate swaps recorded on the Consolidated Balance Sheets in the current period.

##### *Cash Flow Hedging Strategy*

For derivative instruments that are designated and qualify as cash flow hedges, the effective portion of the gain or loss on the derivative instrument is reported as a component of Accumulated other comprehensive loss and reclassified into earnings in the same line item associated with the forecasted transaction and in the same period or periods during which the hedged transaction affects earnings. The categorization of the framework used to price these derivative instruments is considered a Level 3, due to the subjective nature of the unobservable inputs used to determine the fair value.

In February 2013, the Company entered into an interest rate swap transaction to protect \$1 billion of outstanding variable rate term loan debt from future interest rate volatility. The agreement swapped the greater of a three-month variable LIBOR contract or 1.00% for a fixed annual rate of 2.355%, with an effective date in May 2016 and expiration in May 2019. In June 2013, the Company elected to settle this derivative instrument and received \$16 million as a result of this settlement. The offset is included in Accumulated other comprehensive loss and Deferred income taxes and will be amortized to Interest expense from May 2016 through May 2019, the original term of the swap agreement.

In March 2014, the Company entered into an interest rate swap transaction to manage cash flow variability associated with \$1 billion of outstanding variable rate term loan debt. The agreement swapped the greater of a three-month variable LIBOR contract or 1.00% for a fixed annual rate of 2.59%, with an effective date in February 2016 and expiration in February 2019. The Company records changes in fair value in Accumulated other comprehensive income.

In September 2015, the Company entered into an interest rate swap transaction to protect \$1 billion of outstanding variable rate term loan debt from future interest rate volatility. The agreement swapped the greater of a three-month variable LIBOR contract or 1.00% for a fixed annual rate of 1.7185%, with an effective date in December 2015 and expiration in June 2019. The Company records changes in fair value in Accumulated other comprehensive income.

	Liability Derivatives	
	Balance Sheet Location	
Interest rate swaps	2015	2014
	Other long-term liabilities \$ 36	\$ 3

The Fair Value Measurements and Disclosures section of the ASC defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date, and establishes a framework for measuring fair value. This section also establishes a three-level hierarchy (Level 1, 2, or 3) for fair value measurements based upon the observability of inputs to the valuation of an asset or liability as of the measurement date. This section also requires the consideration of the counterparty's or the Company's nonperformance risk when assessing fair value.

The Company's interest rate swap fair values were determined using Level 2 inputs as other significant observable inputs were not available.

The Company's financial instruments consist primarily of cash and cash equivalents, long-term debt, interest rate swap agreements and capital lease obligations. The book value of our long-term indebtedness exceeded fair value by \$55 million as of fiscal 2015, while conversely, its fair value exceeded book value by \$86 million as of fiscal 2014. The Company's long-term debt fair values were determined using Level 2 inputs as other significant observable inputs were not available.

##### *Non-recurring Fair Value Measurements*

The Company has certain assets that are measured at fair value on a non-recurring basis under the circumstances and events described in Note 1 and Note 10. The assets are adjusted to fair value only when the carrying values exceed the fair values. The categorization of the framework used to price the assets is considered Level 3, due to the subjective nature of the unobservable inputs used to determine the fair value (see Note 1 and 10 for additional discussion).

These assets include primarily our definite lived and indefinite lived intangible assets, including Goodwill and our property plant and equipment. The Company reviews Goodwill and other indefinite lived assets for impairment as of the first day of the fourth fiscal quarter each year, and more frequently if impairment indicators exist. The Company determined Goodwill and other indefinite lived assets were not impaired in our annual fiscal 2014 assessment and no impairment indicators existed in the current quarter.



Included in the following tables are the major categories of assets measured at fair value on a non-recurring basis along with the impairment loss recognized on the fair value measurement for the fiscal years then ended.

As of the end of fiscal 2015					
	Level 1	Level 2	Level 3	Total	Impairment
Indefinite-lived trademarks	\$ —	\$ —	\$ 207	\$ 207	\$ —
Goodwill	—	—	1,652	1,652	—
Definite lived intangible assets	—	—	486	486	—
Property, plant, and equipment	—	—	1,294	1,294	2
<b>Total</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 3,639</b>	<b>\$ 3,639</b>	<b>\$ 2</b>

As of the end of fiscal 2014					
	Level 1	Level 2	Level 3	Total	Impairment
Indefinite-lived trademarks	\$ —	\$ —	\$ 207	\$ 207	\$ —
Goodwill	—	—	1,659	1,659	—
Definite lived intangible assets	—	—	585	585	—
Property, plant, and equipment	—	—	1,364	1,364	7
<b>Total</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 3,815</b>	<b>\$ 3,815</b>	<b>\$ 7</b>

As of the end of fiscal 2013					
	Level 1	Level 2	Level 3	Total	Impairment
Indefinite-lived trademarks	\$ —	\$ —	\$ 207	\$ 207	\$ —
Goodwill	—	—	1,634	1,634	—
Definite lived intangible assets	—	—	649	649	5
Property, plant, and equipment	—	—	1,266	1,266	—
<b>Total</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 3,756</b>	<b>\$ 3,756</b>	<b>\$ 5</b>

#### ***Valuation of Goodwill and Indefinite Lived Intangible Assets***

ASC Topic 350 requires the Company to test goodwill for impairment at least annually. The Company conducts the impairment test on the first day of the fourth fiscal quarter, unless indications of impairment exist during an interim period. When assessing its goodwill for impairment, the Company utilizes a comparable company market approach in combination with a discounted cash flow analysis to determine the fair value of their reporting units and corroborate the fair values. The Company utilizes a relief from royalty method to value their indefinite lived trademarks and uses the forecasts that are consistent with those used in the reporting unit analysis. The Company has six reporting units more fully discussed in Note 1. In fiscal 2015, fiscal 2014 and fiscal 2013 the Company determined no impairment existed. The Company did not recognize any impairment charges on the indefinite lived intangible assets in any of the years presented.

#### ***Valuation of Property, Plant and Equipment and Definite Lived Intangible Assets***

The Company periodically realigns their manufacturing operations which results in facilities being closed and shut down and equipment transferred to other facilities or equipment being scrapped or sold. The Company utilizes appraised values to corroborate the fair value of the facilities and has utilized a scrap value based on prior facility shut downs to estimate the fair value of the equipment, which has approximated the actual value that was received. When impairment indicators exist, the Company will also perform an undiscounted cash flow analysis to determine the recoverability of the Company's long-lived assets. The Company incurred an impairment charges of \$2 million and \$7 million related to property, plant and equipment in fiscal years 2015 and 2014, respectively. The Company did not incur an impairment charge related to property, plant and equipment in fiscal 2013. The Company did not incur an impairment charge on definite lived intangible assets in fiscal 2015 or 2014. The Company did recognize an impairment charge of \$5 million on definite lived intangible assets related to the decision to exit certain businesses during fiscal 2013.

## 5. Goodwill, Intangible Assets and Deferred Costs

The following table sets forth the gross carrying amount and accumulated amortization of the Company's goodwill, intangible assets and deferred costs as of the fiscal year end:

	2015	2014	Amortization Period
Deferred financing fees – revolving line of credit	\$ 4	\$ 8	Effective Interest Method
Accumulated amortization	—	(4)	
Deferred financing fees, net	4	4	
Goodwill	1,652	1,659	Indefinite lived
Customer relationships	1,159	1,167	11 – 20 years
Trademarks (indefinite lived)	207	207	Indefinite lived
Trademarks (definite lived)	74	75	8-15 years
Other intangibles	106	109	10-20 years
Accumulated amortization	(853)	(766)	
Intangible assets, net	693	792	
Total goodwill, intangible assets and deferred costs	\$ 2,349	\$ 2,455	

Future amortization expense for definite lived intangibles as of fiscal 2015 for the next five fiscal years is \$84 million, \$72 million, \$55 million, \$50 million and \$46 million each year for fiscal years ending 2016, 2017, 2018, 2019, and 2020, respectively.

## 6. Lease and Other Commitments and Contingencies

The Company leases certain property, plant and equipment under long-term lease agreements. Property, plant, and equipment under capital leases are reflected on the Company's balance sheet as owned. The Company entered into new capital lease obligations totaling \$29 million, \$45 million, and \$49 million during fiscal 2015, 2014, and 2013, respectively, with various lease expiration dates through 2025. The Company records amortization of capital leases in Cost of goods sold in the Consolidated Statement of Income. Assets under operating leases are not recorded on the Company's balance sheet. Operating leases expire at various dates in the future with certain leases containing renewal options. The Company had minimum lease payments or contingent rentals of \$24 million and \$24 million and asset retirement obligations of \$8 million and \$7 million as of fiscal 2015 and 2014, respectively. Total rental expense from operating leases was \$53 million, \$54 million, and \$53 million in fiscal 2015, 2014, and 2013, respectively.

Future minimum lease payments for capital leases and non-cancellable operating leases with initial terms in excess of one year as of fiscal year end 2015 are as follows:

	Capital Leases	Operating Leases
2016	\$ 28	\$ 50
2017	25	46
2018	23	39
2019	21	34
2020	21	28
Thereafter	24	137
	142	334
Less: amount representing interest	(16)	
Present value of net minimum lease payments	\$ 126	

The Company has entered into a series of sale-leaseback transactions, pursuant to which it sold certain facilities and is leasing these facilities back. The Company has a total deferred gain on these sale-leaseback transactions of \$28 million and is amortizing this over the respective lease of the facility.

### Litigation

In July 2012, Berry Plastics Corporation ("BPC") was sued by a customer for breach of contract, breach of express warranty, and breach of implied warranties. The customer alleged that in December 2007 and January 2008 BPC supplied the customer with defective woven polypropylene fabric used to manufacture containers that it then sold to its customers. In November 2015, a jury rendered a judgment in favor of the customer, which is immaterial to the Company. The Company intends to appeal the judgment and file certain post-trial motions. While we are unable to predict the ultimate outcome of this matter, management expects any final judgment against BPC to be covered by insurance maintained by the Company.

The Company is party to various legal proceedings in addition to the above involving routine claims which are incidental to its business. Although the Company's legal and financial liability with respect to such proceedings cannot be estimated with certainty, the Company believes that any ultimate liability would not be material to its financial position, results of operations or cash flows. The Company has various purchase commitments for raw materials, supplies and property and equipment incidental to the ordinary conduct of business.

### Collective Bargaining Agreements

At the end of fiscal 2015, we employed approximately 16,000 employees, and approximately 12% of those employees are covered by collective bargaining agreements. There are four agreements, representing approximately 56% of union employees, due for renegotiation in fiscal 2016. The remaining agreements expire after fiscal 2016. Our relations with employees under collective bargaining agreements remain satisfactory and there have been no significant work stoppages or other labor disputes during the past three years.

### 7. Accrued Expenses, Other Current Liabilities and Other Long-Term Liabilities

The following table sets forth the totals included in Accrued expenses and other current liabilities as of fiscal year end.

	2015	2014
Employee compensation, payroll, and other taxes	\$ 102	\$ 91
Interest	38	44
Rebates	53	50
Property taxes	13	13
Restructuring	10	13
Tax receivable agreement obligation	57	39
Other	65	64
	<u>\$ 338</u>	<u>\$ 314</u>

The following table sets forth the totals included in Other long-term liabilities as of fiscal year end.

	2015	2014
Lease retirement obligation	\$ 32	\$ 31
Sale-lease back deferred gain	28	30
Pension liability	57	45
Tax receivable agreement obligation	175	234
Interest rate swaps	36	3
Other	13	13
	<u>\$ 341</u>	<u>\$ 356</u>

### 8. Income Taxes

The Company is being taxed at the U.S. corporate level as a C-Corporation and has provided U.S. Federal, State and foreign income taxes.

Significant components of income tax expense for the fiscal years ended are as follows:

	2015	2014	2013
Current			
United States			
Federal	\$ -	-	-
State	3	5	2
Non-U.S.	7	3	4
Current income tax provision	<u>10</u>	<u>8</u>	<u>6</u>
Deferred:			
United States			
Federal	31	3	26
State	(4)	(5)	(3)
Non-U.S.	(1)	(2)	(1)
Deferred income tax expense (benefit)	<u>26</u>	<u>(4)</u>	<u>22</u>
Expense for income taxes	<u>\$ 36</u>	<u>\$ 4</u>	<u>\$ 28</u>

U.S. income from continuing operations before income taxes was \$99 million, \$58 million, and \$77 million for fiscal 2015, 2014, and 2013, respectively. Non-U.S. income from continuing operations before income taxes was \$23 million, \$9 million, and \$8 million for fiscal 2015, 2014, and 2013, respectively.

The reconciliation between U.S. Federal income taxes at the statutory rate and the Company's benefit for income taxes on continuing operations for fiscal year end is follows:

	2015	2014	2013
U.S. Federal income tax expense at the statutory rate	\$ 43	\$ 23	\$ 29
Adjustments to reconcile to the income tax provision:			
U.S. State income tax expense	7	5	(1)
Changes in state valuation allowance	(7)	-	-
Research and development credits	(5)	(20)	-
Permanent differences	-	(2)	-
Changes in foreign valuation allowance	-	1	1
Rate differences between U.S. and foreign	(2)	(1)	(2)
APB 23	-	(1)	-
Other	-	(1)	1
Expense for income taxes	<u>\$ 36</u>	<u>\$ 4</u>	<u>\$ 28</u>

Deferred income taxes result from temporary differences between the amount of assets and liabilities recognized for financial reporting and tax purposes. The components of the net deferred income tax liability as of fiscal year end are as follows:

	2015	2014
Deferred tax assets:		
Allowance for doubtful accounts	\$ 3	\$ 3
Deferred gain on sale-leaseback	12	13
Accrued liabilities and reserves	84	58
Inventories	9	10
Net operating loss carryforward	130	248
Alternative minimum tax (AMT) credit carryforward	9	9
Research and development credit carryforward	22	22
Federal and state tax credits	7	13
Other	3	9
Total deferred tax assets	<u>279</u>	<u>385</u>
Valuation allowance	<u>(29)</u>	<u>(56)</u>
Total deferred tax assets, net of valuation allowance	<u>250</u>	<u>329</u>
Deferred tax liabilities:		
Property, plant and equipment	137	157
Intangible assets	256	279
Debt extinguishment	79	107
Other	3	6
Total deferred tax liabilities	<u>475</u>	<u>549</u>
Net deferred tax liability	<u>\$ (225)</u>	<u>\$ (220)</u>

In the United States the Company had \$361 million of federal net operating loss carryforwards as of fiscal 2015, which will be available to offset future taxable income. As of fiscal year end 2015, the Company had state and foreign net operating loss carryforwards of \$684 million and \$52 million, respectively, which will be available to offset future taxable income. If not used, the federal net operating loss carryforwards will expire in future years beginning 2025 through 2031. AMT credit carryforwards totaling \$9 million are available to the Company indefinitely to reduce future years' federal income taxes. The state net operating loss carryforwards will expire in future years beginning in 2015 through 2033. The Company has \$22 million and \$7 million of federal and state Research and Development tax credits, respectively, that will expire in future years beginning 2027 through 2034. In addition, the Company has \$4 million of other state tax credits that will expire in future years beginning in 2016 through 2020.

In connection with the initial public offering, the Company entered into an income tax receivable agreement that provides for the payment to pre-initial public offering stockholders, option holders and holders of our stock appreciation rights, 85% of the amount of cash savings, if any, in U.S. federal, foreign, state and local income tax that are actually realized (or are deemed to be realized in the case of a change of control) as a result of the utilization of our and our subsidiaries' net operating losses attributable to periods prior to the initial public offering. Based on the Company's assumptions using various items, including valuation analysis and current tax law, the Company recorded an obligation of \$313 million which was recognized as a reduction of Paid-in capital on the Consolidated Balance Sheets. The Company made payments of \$39 million, \$32 million, and \$5 million in fiscal years 2015, 2014, and 2013, respectively. The balance at the end of fiscal 2015 was \$232 million, and the Company made its fiscal year 2016 payment of \$57 million in October 2015.

The Company believes that it will not generate sufficient future taxable income to realize the tax benefits in certain foreign jurisdictions related to the deferred tax assets. The Company also has certain state net operating losses that may expire before they are fully utilized. Therefore, the Company has provided a full valuation allowance against certain of its foreign deferred tax assets and a valuation allowance against certain of its state deferred tax assets included within the deferred tax assets.

Prior changes in ownership have created limitations under Sec. 382 of the Internal Revenue Code on annual usage of net operating loss carryforwards. However, all of the Company's Federal net operating loss carryforwards should be available for use within the next five years. As part of the effective tax rate calculation, if we determine that a deferred tax asset arising from temporary differences is not likely to be utilized, we will establish a valuation allowance against that asset to record it at its expected realizable value. The Company has not provided a valuation allowance on its federal net operating loss carryforwards in the United States because it has cumulative income, federal taxable income and has also determined that future reversals of its temporary taxable differences will occur in the same periods and are of the same nature as the temporary differences giving rise to the deferred tax assets. Our valuation allowance against deferred tax assets was \$29 million and \$56 million as of fiscal year end 2015 and 2014, respectively, related to the foreign and U.S. state operations. The Company paid cash taxes of \$9 million, \$7 million, and \$3 million in fiscal 2015, 2014, and 2013, respectively.

#### *Uncertain Tax Positions*

We adopted the provisions of the Income Taxes standard of the Codification. This interpretation clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements in accordance with guidance provide by FASB and prescribes a recognition threshold of more-likely-than-not to be sustained upon examination. Our policy to include interest and penalties related to gross unrecognized tax benefits within our provision for income taxes did not change.

The following table summarizes the activity related to our gross unrecognized tax benefits for fiscal year end:

	2015	2014
Beginning unrecognized tax benefits	\$ 14	\$ 14
Gross increases – tax positions in prior periods	-	2
Gross increases – current period tax positions	1	1
Settlements	(1)	(2)
Lapse of statute of limitations	(1)	(1)
Ending unrecognized tax benefits	<u>\$ 13</u>	<u>\$ 14</u>

The amount of unrecognized tax benefits that, if recognized, would affect our effective tax rate was \$7 million and \$8 million for fiscal year end 2015 and 2014.

As of fiscal year end 2015, we had \$2 million accrued for payment of interest and penalties related to our uncertain tax positions. Our penalties and interest related to uncertain tax positions are included in income tax expense.

We and our subsidiaries are routinely examined by various taxing authorities. Although we file U.S. federal, U.S. state, and foreign tax returns, our major tax jurisdiction is the U.S. The IRS has completed an examination of our 2003, 2010 and 2011 tax years. Our 2004 – 2009, 2012 and 2013 tax years remain subject to examination by the IRS. There are various other on-going audits in various other jurisdictions that are not material to our financial statements.

As of the end of fiscal 2015, we had unremitted earnings from foreign subsidiaries that are permanently reinvested for continued use in foreign operations, accordingly, no provision for U.S. federal or state income taxes has been provided thereon. If distributed, those earnings would result in additional income tax expense at approximately the U.S. statutory rate. Determination of the amount of unrecognized deferred US income tax liability is not practicable due to the complexities associated with its hypothetical calculation.

## 9. Retirement Plan

The Company maintains four defined benefit pension plans which cover certain manufacturing facilities. The Company also maintains a retiree health plan, which covers certain healthcare and life insurance benefits for certain retired employees and their spouses. Each of the four defined benefit plans and the retiree health plan are frozen plans. The Company uses fiscal year end as a measurement date for the retirement plans.

The Company sponsors two defined contribution 401(k) retirement plans covering substantially all employees. Contributions are based upon a fixed dollar amount for employees who participate and percentages of employee contributions at specified thresholds. Contribution expense for these plans was \$7 million, \$8 million, and \$7 million for fiscal 2015, 2014, and 2013, respectively.

The projected benefit obligations of the Company's plans presented herein are equal to the accumulated benefit obligations of such plans. The tables below exclude the obligations related to the foreign plans, which carry immaterial balances. The net amount of liability recognized is included in Other long-term liabilities on the Consolidated Balance Sheets.

	Defined Benefit Pension Plans		Retiree Health Plan	
	2015	2014	2015	2014
<b>Change in Projected Benefit Obligations (PBO)</b>				
PBO at beginning of period	\$ 192	\$ 178	\$ 2	\$ 2
Service cost	1	-	-	-
Interest cost	8	8	-	-
Actuarial loss (gain)	11	15	-	-
Benefit settlements	(9)	-	-	-
Benefits paid	(10)	(9)	-	-
PBO at end of period	<u>\$ 193</u>	<u>\$ 192</u>	<u>\$ 2</u>	<u>\$ 2</u>
<b>Change in Fair Value of Plan Assets</b>				
Plan assets at beginning of period	\$ 154	\$ 141	\$ -	\$ -
Actual return on plan assets	3	15	-	-
Company contributions	4	7	-	-
Benefit settlements	(9)	-	-	-
Benefits paid	(10)	(9)	-	-
Plan assets at end of period	<u>142</u>	<u>154</u>	<u>-</u>	<u>-</u>
<b>Net amount recognized</b>	<u>\$ (51)</u>	<u>\$ (38)</u>	<u>\$ (2)</u>	<u>\$ (2)</u>

At the end of fiscal 2015 the Company had \$45 million of net unrealized losses recorded in Accumulated other comprehensive loss on the Consolidated Balance Sheets. The Company expects \$2 million to be realized in fiscal 2016, and the remaining to be recognized over the next 13 fiscal years.

The following table presents significant weighted-average assumptions used to determine benefit obligation and benefit cost for the fiscal years ended:

(Percents)	Defined Benefit Pension Plans		Retiree Health Plan	
	2015	2014	2015	2014
Weighted-average assumptions:				
Discount rate for benefit obligation	4.0	4.0	3.0	2.9
Discount rate for net benefit cost	4.0	4.5	2.9	3.1
Expected return on plan assets for net benefit costs	7.25	8.0	N/A	N/A

In evaluating the expected return on plan assets, Berry considered its historical assumptions compared with actual results, an analysis of current market conditions, asset allocations, and the views of advisors. The return on plan assets is derived from target allocations and historical yield by asset type. Health-care-cost trend rates were assumed to increase at an annual rate of 7.0%. A one-percentage-point change in these assumed health care cost trend rates would not have a material impact on our postretirement benefit obligation.

In accordance with the guidance from the FASB for employers' disclosure about postretirement benefit plan assets the table below discloses fair values of each pension plan asset category and level within the fair value hierarchy in which it falls. There were no material changes or transfers between level 3 assets and the other levels.

Fiscal 2015 Asset Category	Level 1	Level 2	Level 3	Total
Cash and cash equivalents	\$ 8	\$ -	\$ -	\$ 8
U.S. large cap comingled equity funds	-	37	-	37
U.S. mid cap equity mutual funds	24	-	-	24
U.S. small cap equity mutual funds	2	-	-	2
International equity mutual funds	6	-	-	6
Real estate equity investment funds	3	-	-	3
Corporate bond mutual funds	21	-	-	21
Corporate bonds	-	31	-	30
Guaranteed investment account	-	-	10	10
<b>Total</b>	<b>\$ 64</b>	<b>\$ 68</b>	<b>\$ 10</b>	<b>\$ 142</b>

Fiscal 2014 Asset Category	Level 1	Level 2	Level 3	Total
Cash and cash equivalents	\$ 7	\$ -	\$ -	\$ 7
U.S. large cap comingled equity funds	-	47	-	47
U.S. mid cap equity mutual funds	27	-	-	27
U.S. small cap equity mutual funds	6	-	-	6
International equity mutual funds	10	-	-	10
Real estate equity investment funds	3	-	-	3
Corporate bond mutual funds	28	-	-	28
Corporate bonds	-	15	-	15
Guaranteed investment account	-	-	11	11
<b>Total</b>	<b>\$ 81</b>	<b>\$ 62</b>	<b>\$ 11</b>	<b>\$ 154</b>

The following benefit payments, which reflect expected future service, as appropriate, are expected to be paid for the fiscal year end:

	Defined Benefit Pension Plans	Retiree Health Plan
2016	\$ 10	\$ -
2017	10	-
2018	10	-
2019	10	-
2020	11	-
2021-2025	56	1

Net pension and retiree health benefit expense included the following components as of fiscal year end:

	2015	2014	2013
Defined Benefit Pension Plans			
Service cost	\$ 1	\$ -	\$ -
Interest cost	8	8	7
Amortization	1	-	3
Settlement charge	2	-	-
Expected return on plan assets	(12)	(11)	(10)
Net periodic benefit cost	<u>\$ -</u>	<u>\$ (3)</u>	<u>\$ -</u>

Our defined benefit pension plan asset allocations as of fiscal year end are as follows:

Asset Category	2015	2014
Equity securities and equity-like instruments	51%	60%
Debt securities and debt-like	37	28
Other	12	12
Total	<u>100%</u>	<u>100%</u>

The Company's retirement plan assets are invested with the objective of providing the plans the ability to fund current and future benefit payment requirements while minimizing annual Company contributions. The retirement plans held \$17 million of the Company's stock at the end of fiscal 2015. The Company re-addresses the allocation of its investments on a regular basis.

#### 10. Restructuring and Impairment Charges

The Company has announced various restructuring plans in the last three fiscal years which included shutting down facilities in all four of the Company's operating segments. In all instances, the majority of the operations from rationalized facilities was transferred to other facilities within the respective division.

During fiscal 2013, the Company made the decision to exit certain operations in the Engineered Materials division. This decision resulted in a non-cash impairment charges of \$6 million related to certain intangible assets deemed to have no further value recorded in Restructuring and impairment charges on the Consolidated Statement of Income. The exited businesses were immaterial to the Company and the Engineered Materials segment.

During fiscal 2014, the Company initiated a cost reduction plan designed to deliver meaningful cost savings and improved equipment utilization. The Company announced the intention to shut down four facilities, one each in Rigid Open Top, Rigid Closed Top, Engineered Materials and Flexible Packaging divisions. The affected Rigid Open Top, Rigid Closed Top, Engineered Materials, and Flexible Packaging businesses accounted for approximately \$111 million, \$14 million, \$9 million, and \$28 million of annual net sales, respectively.

During fiscal 2015, the Company announced the intention to shut down two facilities, one each in the Rigid Open Top and Engineered Materials divisions. The affected Rigid Open Top and Engineered Materials businesses accounted for approximately \$24 million and \$16 million of annual net sales, respectively.



Since 2013, total expected costs attributed to restructuring programs total \$60 million with \$3 million remaining to be recognized in the future.

	Expected Total Costs	Cumulative charges through	
		Fiscal 2015	To be Recognized in Future
Severance and termination benefits	\$ 18	\$ 18	\$ -
Facility exit costs	27	24	3
Asset impairment	15	15	-
<b>Total</b>	<b>\$ 60</b>	<b>\$ 57</b>	<b>\$ 3</b>

The tables below sets forth the significant components of the restructuring charges recognized for the fiscal years ended, by segment:

	2015	2014	2013
Rigid Open Top	\$ 5	\$ 13	\$ 1
Rigid Closed Top	3	2	3
Engineered Materials	1	7	9
Flexible Packaging	4	8	1
<b>Consolidated</b>	<b>\$ 13</b>	<b>\$ 30</b>	<b>\$ 14</b>

The table below sets forth the activity with respect to the restructuring accrual:

	Employee Severance and Benefits	Facility Exit Costs	Non-cash charges	Total
Balance as of fiscal 2013	\$ 2	2	-	4
Charges	9	14	7	30
Non-cash asset impairment	-	-	(7)	(7)
Cash payments	(6)	(8)	-	(14)
Balance as of fiscal 2014	\$ 5	\$ 8	\$ -	\$ 13
Charges	4	7	2	13
Non-cash asset impairment	-	-	(2)	(2)
Cash payments	(7)	(7)	-	(14)
Balance as of fiscal 2015	\$ 2	\$ 8	\$ -	\$ 10

## 11. Related Party Transactions

In connection with the term loan refinancing entered into in January 2014, the Company paid a \$1 million underwriting fee to Apollo Global Securities, LLC, an affiliate of Apollo that served as a manager of the offering.

The Company made payments related to the income tax receivable agreement ("TRA"), of \$39 million in October 2014 and \$32 million in October 2013, of which Apollo Global Management, LLC received \$33 million and \$28 million, respectively. Mr. Robert V. Seminara, a member of the Company's Board of Directors, has been employed by Apollo since 2003.

## 12. Stockholders' Equity

### Equity Incentive Plans

In fiscal 2015, the Company adopted the 2015 Berry Plastics Group, Inc. Long-Term Incentive Plan ("2015 Plan") to align its incentive plans with plans of similar public companies by permitting for, among other things, the issuance of performance-based awards. The 2015 Plan authorized the issuance of 7,500,000 shares, an increase of approximately 5 million over the remaining available for grant at the time of adoption. As of the adoption of the 2015 Plan, no shares were permitted to be issued any other previous Incentive Plans.

The Company recognized total stock-based compensation expense of \$21 million, \$15 million, and \$16 million for fiscal 2015, 2014 and 2013. The intrinsic value of options exercised in fiscal 2015 was \$41 million.

Information related to the equity incentive plans as of the fiscal year end is as follows:

	2015		2014	
	Number Of Shares (in thousands)	Weighted Average Exercise Price	Number Of Shares (in thousands)	Weighted Average Exercise Price
Options outstanding, beginning of period	10,504	\$ 13.13	10,035	\$ 9.96
Options granted	2,839	28.78	2,727	21.02
Options exercised	(1,929)	9.07	(2,137)	8.19
Options forfeited or cancelled	(63)	17.59	(121)	15.20
Options outstanding, end of period	11,351	\$ 17.71	10,504	\$ 13.13
Option price range at end of period	\$ 3.04-33.91		\$ 3.04-22.95	
Options exercisable at end of period	4,786		5,098	
Options available for grant at period end	7,500		5,349	
Weighted average fair value of options granted during period	\$ 9.51		\$ 7.53	

The fair value for options granted has been estimated at the date of grant using a Black-Scholes model, generally with the following weighted average assumptions:

	2015	2014	2013
Risk-free interest rate	1.6%	1.3%	.6%
Dividend yield	0.00%	0.00%	0.00%
Volatility factor	.30	.33	.38
Expected option life	7 years	7 years	7 years

The following table summarizes information about the options outstanding as of fiscal 2015:

Range of Exercise Prices	Number Outstanding	Intrinsic Value of Outstanding	Weighted Remaining Contractual Life	Weighted Exercise Price	Number Exercisable	Intrinsic Value of Exercisable	Unrecognized Compensation	Weighted Recognition Period
\$3.04-33.91	11,351	\$ 143	8 years	\$ 17.17	4,786	\$ 92	\$ 25	2 years

### 13. Segment and Geographic Data

Berry's operations are organized into four reportable segments: Rigid Open Top, Rigid Closed Top, Engineered Materials, and Flexible Packaging. The Company has manufacturing and distribution centers in the United States, Canada, Mexico, Belgium, France, Australia, Germany, Brazil, Malaysia, India, China, and the Netherlands. The North American operation represents 95% of the Company's net sales, 96% of total long-lived assets, and 95% of the total assets. Selected information by reportable segment is presented in the following table.

	2015		2014		2013	
Net sales						
Rigid Open Top	\$ 1,055	\$ 1,110	\$ 1,127			
Rigid Closed Top	1,474	1,469	1,387			
Engineered Materials	1,397	1,455	1,397			
Flexible Packaging	955	924	736			
Total	\$ 4,881	\$ 4,958	\$ 4,647			
Operating income						
Rigid Open Top	\$ 71	\$ 34	\$ 123			
Rigid Closed Top	139	132	130			
Engineered Materials	143	125	116			
Flexible Packaging	55	25	17			
Total	\$ 408	\$ 316	\$ 386			
Depreciation and amortization						
Rigid Open Top	\$ 93	\$ 92	\$ 90			
Rigid Closed Top	131	133	129			
Engineered Materials	68	75	71			
Flexible Packaging	58	58	51			
Total	\$ 350	\$ 358	\$ 341			

	2015	2014
Total assets:		
Rigid Open Top	\$ 1,765	\$ 1,812
Rigid Closed Top	1,852	1,953
Engineered Materials	679	726
Flexible Packaging	732	761
Total assets	<u>\$ 5,028</u>	<u>\$ 5,252</u>
Goodwill:		
Rigid Open Top	\$ 681	\$ 681
Rigid Closed Top	823	827
Engineered Materials	69	71
Flexible Packaging	79	80
Total goodwill	<u>\$ 1,652</u>	<u>\$ 1,659</u>

#### 14. Net Income per Share

Basic net income per share is calculated by dividing the net income attributable to common stockholders by the weighted-average number of common shares outstanding during the period, without consideration for common stock equivalents. Diluted net income per share is computed by dividing the net income attributable to common stockholders by the weighted-average number of common share equivalents outstanding for the period determined using the treasury-stock method and the if-converted method. For purposes of this calculation, stock options are considered to be common stock equivalents and are only included in the calculation of diluted net income per share when their effect is dilutive. The Company's redeemable common stock is included in the weighted-average number of common shares outstanding for calculating basic and diluted net income per share.

The following tables and discussion provide a reconciliation of the numerator and denominator of the basic and diluted net income per share computations. The calculation below provides net income on both basic and diluted basis for fiscal year end.

(in millions, except per share amounts)	2015	2014	2013
<b>Numerator</b>			
Net income attributable to the Company	\$ 86	\$ 62	\$ 57
<b>Denominator</b>			
Weighted average common shares outstanding - basic	119.1	116.9	113.5
Dilutive shares	4.3	4.6	6.0
Weighted average common and common equivalent shares outstanding - diluted	<u>123.4</u>	<u>121.5</u>	<u>119.5</u>
<b>Per common share income (loss)</b>			
Basic	\$ 0.72	\$ 0.53	\$ 0.50
Diluted	\$ 0.70	\$ 0.51	\$ 0.48

## 15. Guarantor and Non-Guarantor Financial Information

Berry Plastics Corporation ("Issuer") has notes outstanding which are fully, jointly, severally, and unconditionally guaranteed by substantially all of Berry's domestic subsidiaries. Separate narrative information or financial statements of the guarantor subsidiaries have not been included because they are 100% owned by the parent company and the guarantor subsidiaries unconditionally guarantee such debt on a joint and several basis. A guarantee of a guarantor of the securities will terminate upon the following customary circumstances: the sale of the capital stock of such guarantor if such sale complies with the indenture, the designation of such guarantor as an unrestricted subsidiary, the defeasance or discharge of the indenture, as a result of the holders of certain other indebtedness foreclosing on a pledge of the shares of a guarantor subsidiary or if such guarantor no longer guarantees certain other indebtedness of the issuer. The guarantees are also limited as necessary to prevent them from constituting a fraudulent conveyance under applicable law and guarantees guaranteeing subordinated debt are subordinated to certain other of the Company's debts. Presented below is condensed consolidating financial information for the parent, issuer, guarantor subsidiaries and non-guarantor subsidiaries. Our issuer and guarantor financial information includes all of our domestic operating subsidiaries, our non-guarantor subsidiaries include our foreign subsidiaries and BP Parallel, LLC. BP Parallel, LLC is the entity that we established to buyback debt securities of Berry Plastics Group, Inc. and Berry Plastics Corporation. Berry Plastics Group, Inc. uses the equity method to account for its ownership in Berry Plastics Corporation in the Condensed Consolidating Supplemental Financial Statements. Berry Plastics Corporation uses the equity method to account for its ownership in the guarantor and non-guarantor subsidiaries. All consolidating entries are included in the eliminations column along with the elimination of intercompany balances.

### Condensed Supplemental Consolidated Statements of Operations

	Fiscal 2015					
	Parent	Issuer	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminations	Total
Net sales	\$ -	\$ 622	\$ 3,807	\$ 452	\$ -	\$ 4,881
Cost of goods sold	-	526	3,128	358	-	4,012
Selling, general and administrative	-	64	232	49	-	357
Amortization of intangibles	-	8	75	8	-	91
Restructuring and impairment charges	-	-	13	-	-	13
Operating income	-	24	347	37	-	408
Debt extinguishment	-	94	-	-	-	94
Other expense (income), net	(3)	-	3	1	-	1
Interest expense, net	-	25	148	18	-	191
Equity in net income of subsidiaries	(119)	(210)	-	-	329	-
Income (loss) before income taxes	122	115	196	18	(329)	122
Income tax expense (benefit)	36	25	-	4	(29)	36
Consolidated net income (loss)	86	90	196	14	(300)	86
Net income(loss) attributable to non-controlling interests	-	-	-	-	-	-
Net income(loss) attributable to the Company	\$ 86	\$ 90	\$ 196	\$ 14	\$ (300)	\$ 86
Currency translation	-	-	-	(45)	-	(45)
Interest rate hedges	-	(33)	-	-	-	(33)
Defined benefit pension and retiree benefit plans	-	(16)	-	-	-	(16)
Provision for income taxes related to other comprehensive income items	-	18	-	-	-	18
Comprehensive income (loss)	\$ 86	\$ 59	\$ 196	\$ (31)	\$ (300)	\$ 10

**Fiscal 2014**

	<b>Parent</b>	<b>Issuer</b>	<b>Guarantor Subsidiaries</b>	<b>Non- Guarantor Subsidiaries</b>	<b>Eliminations</b>	<b>Total</b>
Net sales	\$ -	\$ 638	\$ 3,904	\$ 416	\$ -	\$ 4,958
Cost of goods sold	-	557	3,284	349	-	4,190
Selling, general and administrative	-	52	232	36	-	320
Amortization of intangibles	-	10	84	8	-	102
Restructuring and impairment charges	-	-	30	-	-	30
Operating income	-	19	274	23	-	316
Debt extinguishment	-	35	-	-	-	35
Other income, net	(3)	-	(4)	-	-	(7)
Interest expense, net	34	27	176	(97)	81	221
Equity in net income of subsidiaries	(98)	(218)	-	-	316	-
Income (loss) before income taxes	67	175	102	120	(397)	67
Income tax expense (benefit)	4	44	-	5	(49)	4
Consolidated net income (loss)	63	131	102	115	(348)	63
Net income(loss) attributable to non-controlling interests	1	-	-	-	-	1
Net income(loss) attributable to the Company	\$ 62	\$ 131	\$ 102	\$ 115	\$ (348)	\$ 62
Currency translation	-	-	-	(16)	-	(16)
Interest rate hedges	-	(3)	-	-	-	(3)
Defined benefit pension and retiree benefit plans	-	(11)	-	-	-	(11)
Provision for income taxes related to other comprehensive income items	-	5	-	-	-	5
Comprehensive income (loss)	\$ 62	\$ 122	\$ 102	\$ 99	\$ (348)	\$ 37

**Fiscal 2013**

	<b>Parent</b>	<b>Issuer</b>	<b>Guarantor Subsidiaries</b>	<b>Non- Guarantor Subsidiaries</b>	<b>Eliminations</b>	<b>Total</b>
Net sales	\$ -	\$ 571	\$ 3,706	\$ 370	\$ -	\$ 4,647
Cost of sales	-	506	3,021	308	-	3,835
Selling, general and administrative expenses	-	58	314	40	-	412
Restructuring and impairment charges, net	-	1	13	-	-	14
Operating income (loss)	-	6	358	22	-	386
Other income	-	56	1	-	-	57
Interest expense, net	47	24	201	(120)	92	244
Equity in net income of subsidiaries	(132)	(297)	-	-	429	-
Net income (loss) before income taxes	85	223	156	142	(521)	85
Income tax expense (benefit)	28	80	-	2	(82)	28
Net income (loss)	\$ 57	\$ 143	\$ 156	\$ 140	\$ (439)	\$ 57
Currency translation	-	-	-	(5)	-	(5)
Interest rate hedges	-	20	-	-	-	20
Defined benefit pension and retiree benefit plans	-	34	-	-	-	34
Provision for income taxes related to other comprehensive income items	-	(20)	-	-	-	(20)
Comprehensive income (loss)	\$ 57	\$ 177	\$ 156	\$ 135	\$ (439)	\$ 86

**Condensed Supplemental Consolidated Balance Sheet**  
As of fiscal year end 2015

	<u>Parent</u>	<u>Issuer</u>	<u>Guarantor Subsidiaries</u>	<u>Non- Guarantor Subsidiaries</u>	<u>Eliminations</u>	<u>Total</u>
<b>Assets</b>						
<b>Current assets:</b>						
Cash and cash equivalents	\$ -	\$ 163	\$ -	\$ 65	\$ -	\$ 228
Accounts receivable, net	-	23	337	74	-	434
Intercompany receivable	329	2,963	-	83	(3,375)	-
Inventories	-	49	425	48	-	522
Deferred income taxes	162	-	-	-	-	162
Prepaid expenses and other current	-	22	5	10	-	37
<b>Total current assets</b>	<b>491</b>	<b>3,220</b>	<b>767</b>	<b>280</b>	<b>(3,375)</b>	<b>1,383</b>
Property, plant and equipment, net	-	79	1,111	104	-	1,294
Intangible assets, net	-	97	2,151	101	-	2,349
Investment in subsidiaries	75	1,456	-	-	(1,531)	-
Other assets	-	-	1	1	-	2
<b>Total assets</b>	<b>\$ 566</b>	<b>\$ 4,852</b>	<b>\$ 4,030</b>	<b>\$ 486</b>	<b>\$ (4,906)</b>	<b>\$ 5,028</b>
<b>Liabilities and equity</b>						
<b>Current liabilities:</b>						
Accounts payable	\$ -	\$ 28	\$ 245	\$ 57	\$ -	\$ 330
Accrued expenses and other current liabilities	57	140	121	20	-	338
Intercompany payable	-	-	3,375	-	(3,375)	-
Current portion of long-term debt	-	37	-	-	-	37
<b>Total current liabilities</b>	<b>57</b>	<b>205</b>	<b>3,741</b>	<b>77</b>	<b>(3,375)</b>	<b>705</b>
Long-term debt, less current portion	-	3,647	-	1	-	3,648
Deferred income taxes	387	-	-	-	-	387
Other long-term liabilities	175	122	39	5	-	341
<b>Total long-term liabilities</b>	<b>562</b>	<b>3,769</b>	<b>39</b>	<b>6</b>	<b>-</b>	<b>4,376</b>
<b>Total liabilities</b>	<b>619</b>	<b>3,974</b>	<b>3,780</b>	<b>83</b>	<b>(3,375)</b>	<b>5,081</b>
Redeemable non-controlling interests	12	-	-	-	-	12
Other equity (deficit)	(65)	878	250	403	(1,531)	(65)
<b>Total equity (deficit)</b>	<b>(65)</b>	<b>878</b>	<b>250</b>	<b>403</b>	<b>(1,531)</b>	<b>(65)</b>
<b>Total liabilities and equity (deficit)</b>	<b>\$ 566</b>	<b>\$ 4,852</b>	<b>\$ 4,030</b>	<b>\$ 486</b>	<b>\$ (4,906)</b>	<b>\$ 5,028</b>

**Condensed Supplemental Consolidated Balance Sheet**  
As of fiscal year end 2014

	Parent	Issuer	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Eliminations	Total
<b>Assets</b>						
Current assets:						
Cash and cash equivalents	\$ -	\$ 70	\$ 15	\$ 44	\$ -	\$ 129
Accounts receivable, net of allowance	-	35	377	79	-	491
Intercompany receivable	319	3,343	-	87	(3,749)	-
Inventories	-	51	496	57	-	604
Deferred income taxes	166	-	-	-	-	166
Prepaid expenses and other current	-	15	13	14	-	42
Total current assets	485	3,514	901	281	(3,749)	1,432
Property, plant and equipment, net	-	84	1,162	118	-	1,364
Intangible assets, net	-	104	2,226	125	-	2,455
Investment in subsidiaries	69	1,237	-	-	(1,306)	-
Other assets	-	-	1	-	-	1
Total assets	<u>\$ 554</u>	<u>\$ 4,939</u>	<u>\$ 4,290</u>	<u>\$ 524</u>	<u>\$ (5,055)</u>	<u>\$ 5,252</u>
<b>Liabilities and equity</b>						
Current liabilities:						
Accounts payable	\$ -	\$ 31	\$ 303	\$ 61	\$ -	\$ 395
Accrued and other current liabilities	35	127	132	20	-	314
Intercompany payable	-	-	3,749	-	(3,749)	-
Long-term debt-current portion	-	54	-	4	-	58
Total current liabilities	35	212	4,184	85	(3,749)	767
Long-term debt, less current portion	-	3,842	-	2	-	3,844
Deferred tax liabilities	386	-	-	-	-	386
Other long-term liabilities	234	76	42	4	-	356
Total long-term liabilities	620	3,918	42	6	-	4,586
Total liabilities	<u>655</u>	<u>4,130</u>	<u>4,226</u>	<u>91</u>	<u>(3,749)</u>	<u>5,353</u>
Redeemable non-controlling interests	13	-	-	-	-	13
Other equity (deficit)	(114)	809	64	433	(1,306)	(114)
Total equity (deficit)	<u>(114)</u>	<u>809</u>	<u>64</u>	<u>433</u>	<u>(1,306)</u>	<u>(114)</u>
Total liabilities and equity (deficit)	<u>\$ 554</u>	<u>\$ 4,939</u>	<u>\$ 4,290</u>	<u>\$ 524</u>	<u>\$ (5,055)</u>	<u>\$ 5,252</u>

**Condensed Supplemental Consolidated Statements of Cash Flows**

**Fiscal 2015**

	<b>Parent</b>	<b>Issuer</b>	<b>Guarantor Subsidiaries</b>	<b>Non-Guarantor Subsidiaries</b>	<b>Eliminations</b>	<b>Total</b>
<b>Cash Flow from Operating Activities</b>	\$ -	\$ 60	\$ 542	\$ 34	\$ 1	\$ 637
<b>Cash Flow from Investing Activities</b>						
Additions to property, plant, and equipment	-	(13)	(164)	(3)	-	(180)
Proceeds from sale of assets	-	-	18	-	-	18
Investment in Parent	-	-	-	-	-	-
(Contributions) distributions to/from subsidiaries	(18)	18	-	-	-	-
Intercompany advances (repayments)	-	368	-	-	(368)	-
Acquisition of business, net of cash acquired	-	-	(3)	-	-	(3)
Net cash from investing activities	<u>(18)</u>	<u>373</u>	<u>(149)</u>	<u>(3)</u>	<u>(368)</u>	<u>(165)</u>
<b>Cash Flow from Financing Activities</b>						
Proceeds from long-term borrowings	-	693	-	-	-	693
Payment of tax receivable agreement	(39)	-	-	-	-	(39)
Proceed from issuance of common stock	18	-	-	-	-	18
Repayment of note receivable	-	-	-	-	-	-
Repayment of long-term borrowings	-	(947)	-	(4)	-	(951)
Changes in intercompany balances	39	-	(408)	2	367	-
Contribution from Parent	-	-	-	-	-	-
Debt financing costs	-	(86)	-	-	-	(86)
Net cash from financing activities	<u>18</u>	<u>(340)</u>	<u>(408)</u>	<u>(2)</u>	<u>367</u>	<u>(365)</u>
Effect of currency translation on cash	-	-	-	(8)	-	(8)
Net change in cash and cash equivalents	-	93	(15)	21	-	99
Cash and cash equivalents at beginning of period	-	70	15	44	-	129
Cash and cash equivalents at end of period	<u>\$ -</u>	<u>\$ 163</u>	<u>\$ -</u>	<u>\$ 65</u>	<u>\$ -</u>	<u>\$ 228</u>

**Fiscal 2014**

	<b>Parent</b>	<b>Issuer</b>	<b>Guarantor Subsidiaries</b>	<b>Non-Guarantor Subsidiaries</b>	<b>Eliminations</b>	<b>Total</b>
<b>Cash Flow from Operating Activities</b>	\$ -	\$ 27	\$ 473	\$ 30	\$ -	\$ 530
<b>Cash Flow from Investing Activities</b>						
Additions to property, plant, and equipment	-	(6)	(200)	(9)	-	(215)
Proceeds from sale of assets	-	-	19	-	-	19
Investment in Parent	-	-	-	-	-	-
(Contributions) distributions to/from subsidiaries	723	(2)	-	721	(1,442)	-
Intercompany advances (repayments)	-	20	-	-	(20)	-
Investment in Issuer debt securities	-	-	-	-	-	-
Acquisition of business, net of cash acquired	-	-	(136)	(90)	-	(226)
Net cash from investing activities	<u>723</u>	<u>12</u>	<u>(317)</u>	<u>622</u>	<u>(1,462)</u>	<u>(422)</u>
<b>Cash Flow from Financing Activities</b>						
Proceeds from long-term borrowings	-	1,627	-	-	-	1,627
Proceeds from initial public offering	-	-	-	-	-	-
Payment of tax receivable agreement	(32)	-	-	-	-	(32)
Proceed from issuance of common stock	17	-	-	-	-	17
Repayment of note receivable	-	-	-	-	-	-
Repayment of long-term borrowings	(740)	(1,668)	-	-	721	(1,687)
Changes in intercompany balances	32	-	(141)	89	20	-
Contribution from Parent	-	-	-	(721)	721	-
Debt financing costs	-	(44)	-	-	-	(44)
Net cash from financing activities	<u>(723)</u>	<u>(85)</u>	<u>(141)</u>	<u>(632)</u>	<u>1,462</u>	<u>(119)</u>
Effect of currency translation on cash	-	-	-	(2)	-	(2)
Net change in cash and cash equivalents	-	(46)	15	18	-	(13)
Cash and cash equivalents at beginning of period	-	116	-	26	-	142
Cash and cash equivalents at end of period	<u>\$ -</u>	<u>\$ 70</u>	<u>\$ 15</u>	<u>\$ 44</u>	<u>\$ -</u>	<u>\$ 129</u>



Fiscal 2013						
	Parent	Issuer	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Eliminations	Total
<b>Cash Flow from Operating Activities</b>	\$ -	\$ 11	\$ 417	\$ 36	\$ -	\$ 464
<b>Cash Flow from Investing Activities</b>						
Additions to property, plant, and equipment	-	(7)	(218)	(14)	-	(239)
Proceeds from disposal of assets	-	1	17	-	-	18
Investment in Parent	-	-	-	(21)	21	--
(Contributions) distributions to/from subsidiaries	(462)	441	-	-	21	-
Intercompany advances (repayments)	-	210	-	-	(210)	-
Investment in Issuer debt securities	-	-	-	-	-	-
Acquisition of business net of cash acquired	-	-	(24)	-	-	(24)
Net cash from investing activities	(462)	645	(225)	(35)	(168)	(245)
<b>Cash Flow from Financing Activities</b>						
Proceeds from long-term debt	-	1,391	-	-	-	1,391
IPO proceeds	438	-	-	-	-	438
Payment of TRA	(5)	(5)	-	-	5	(5)
Proceed from issuance of common stock	27	-	-	-	-	27
Repayment of note receivable	2	2	-	-	(2)	2
Repayment of long-term debt	-	(1,955)	-	(2)	(21)	(1,978)
Changes in intercompany balances	-	-	(192)	(15)	207	-
Contribution from Parent	-	-	-	21	(21)	-
Deferred financing costs	-	(39)	-	-	-	(39)
Net cash from financing activities	462	(606)	(192)	4	168	(164)
Net change in cash and cash equivalents	-	50	-	5	-	55
Cash and cash equivalents at beginning of period	-	66	-	21	-	87
Cash and cash equivalents at end of period	\$ -	\$ 116	\$ -	\$ 26	\$ -	\$ 142

#### 16. Quarterly Financial Data (Unaudited)

The following table contains selected unaudited quarterly financial data for fiscal years ended.

	2015				2014			
	First	Second	Third	Fourth	First	Second	Third	Fourth
Net sales	\$ 1,220	\$ 1,224	\$ 1,241	\$ 1,196	\$ 1,140	\$ 1,210	\$ 1,298	\$ 1,310
Cost of sales	1,037	997	1,003	975	964	1,023	1,089	1,114
Gross profit	183	227	238	221	176	187	209	196
Net income (loss) attributable to the Company	\$ 13	\$ 38	\$ (13)	\$ 48	\$ 6	\$ 12	\$ 15	\$ 29
Net income (loss) attributable to the Company per share:								
Basic	0.11	0.32	(0.11)	0.40	0.05	0.10	0.13	0.25
Diluted	0.11	0.31	(0.11)	0.39	0.05	0.10	0.12	0.24

## 17. Subsequent Events

### *AVINTIV Inc.*

In October 2015, the Company acquired 100% of the capital stock of AVINTIV Inc. (“Avintiv”) for a purchase price of \$2.3 billion which is preliminary, unaudited and subject to adjustment. Avintiv is one of the world’s leading developers, producers, and marketers of nonwoven specialty materials used in hygiene, infection prevention, personal care, and high-performance solutions. With 23 locations in 14 countries, an employee base of over 4,500 people, and the broadest range of process technologies in the industry, Avintiv’s strategically located manufacturing facilities position it as a global supplier to many of the same leading consumer and industrial product manufacturers that the Company supplies and utilize similar key raw materials as the Company’s existing business. The acquired business will primarily be operated in Berry’s newly announced Health, Hygiene and Specialties reporting segment. To finance the purchase, the Company issued \$400 million aggregate principal amount of 6.0% second priority senior secured notes due 2022 and entered into an incremental assumption agreement to increase the commitments under the Company’s existing term loan credit agreement by \$2.1 billion due 2022.

The acquisition has been accounted for under the purchase method of accounting, and accordingly, the purchase price will be allocated to the identifiable assets and liabilities based on preliminary fair values at the acquisition date. The Company is in the process of determining the allocation of the purchase price to the fair value on fixed assets, intangibles, deferred income taxes and reviewing all of the working capital acquired. The preliminary unaudited allocation of purchase price and estimated fair values of acquired assets and assumed liabilities consisted of working capital of \$181 million, property and equipment of \$969 million, intangible assets of \$586 million, goodwill of \$802 million, other assets of \$46 million, a net deferred tax liability of \$114 million and other long-term liabilities of \$207 million.

Unaudited pro forma net sales were \$6,739 million and \$6,666 million and unaudited pro forma net losses were \$40 million and \$47 million for fiscal 2015 and fiscal 2014, respectively. The unaudited pro forma net sales and net loss assume that the Avintiv acquisition had occurred as of the beginning of the respective periods. The results of the Providência and Dounor acquisitions have been included in Avintiv’s operations since June 11, 2014 and April 17, 2015, respectively. However, no pro forma adjustments have been made with respect to their operations prior to the date of acquisition by Avintiv as these acquisitions were not considered significant to Berry under Regulation S-X.

The unaudited pro forma information presented above is for informational purposes only and is not necessarily indicative of the operating results that would have occurred had the Avintiv acquisition been consummated at the beginning of the respective period, nor is it necessarily indicative of future operating results. Further, the information reflects only pro forma adjustments for additional interest expense, depreciation, and amortization, net of the applicable income tax effects.

### *Business Reorganization*

In November 2015 the Company reorganized into three operating segments: Health, Hygiene and Specialties, Consumer Packaging, and Engineered Materials. The Health, Hygiene and Specialties segment will include the recently acquired Avintiv business and personal care films and international business that historically reported in our Flexible Packaging segment. The Consumer Packaging segment will consist of our historical Rigid Open Top segment, Rigid Closed Top segment, the food and consumer films business that historically reported in our Flexible Packaging segment, and the custom shrink films business that was historically reported in our Engineered Materials segment. The Engineered Material segment will include the old Engineered Material segment, excluding the custom shrink films business, and the converter films business that was historically reported in our Flexible Packaging segment. Beginning with our results for the first quarter of fiscal 2016, we will report results based on our new operating segment structure.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on the 23rd day of November, 2015.

### Berry Plastics Group, Inc.

By: /s/ Jonathan D. Rich  
Jonathan D. Rich  
Chairman and Chief Executive Office

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

<b>Signature</b>	<b>Title</b>	<b>Date</b>
<u>/s/ Jonathan D. Rich</u> Jonathan D. Rich	Chairman of the Board of Directors, Chief Executive Officer and Director (Principal Executive Officer)	November 23, 2015
<u>/s/ Mark W. Miles</u> Mark W. Miles	Chief Financial Officer (Principal Financial Officer)	November 23, 2015
<u>/s/ James M. Till</u> James M. Till	Executive Vice President and Controller (Principal Accounting Officer)	November 23, 2015
<u>/s/ B. Evan Bayh</u> B. Evan Bayh	Director	November 23, 2015
<u>/s/ Jonathan F. Foster</u> Jonathan F. Foster	Director	November 23, 2015
<u>/s/ Stephen E. Sterrett</u> Stephen E. Sterrett	Director	November 23, 2015
<u>/s/ Idalene F. Kesner</u> Idalene F. Kesner	Director	November 23, 2015
<u>/s/ Carl J. Rickertsen</u> Carl J. Rickertsen	Director	November 23, 2015
<u>/s/ Ronald S. Rolfe</u> Ronald S. Rolfe	Director	November 23, 2015
<u>/s/ Robert V. Seminara</u> Robert V. Seminara	Director	November 23, 2015
<u>/s/ Robert A. Steele</u> Robert A. Steele	Director	November 23, 2015

Exhibit No	[Description of Exhibit]
2.1	Agreement and Plan of Merger, dated as of July 30, 2015, by and among AVINTIV Inc., Berry Plastics Group, Inc., Berry Plastics Acquisition Corporation IX and Blackstone Capital Partners (Cayman) V L.P., as the security holder representative (the Exhibits and Disclosure Schedules have been omitted pursuant to Item 601(b)(2) of Regulation S-K and will be provided to the SEC upon request) (incorporated by reference to Exhibit 2.1 to the Company's Form 8-K filed on August 5, 2015).
3.1	Amended and Restated Certificate of Incorporation of Berry Plastics Group, Inc. (incorporated by reference to Exhibit 3.1 to the Company's Form 8-K filed on March 10, 2015).
3.2	Amended and Restated Bylaws of Berry Plastics Group, Inc. (incorporated herein by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on January 29, 2014).
4.1	Indenture, dated as of May 12, 2014, by and among Berry Plastics Corporation, the guarantors party thereto and U.S. Bank National Association, as Trustee, relating to the 5.50% second priority senior secured notes due 2022 (incorporated herein by reference to Exhibit 4.2 of the Company's Current Report on Form 8-K filed on May 13, 2014).
4.2	Indenture, dated as of June 5, 2015, by and among Berry Plastics Corporation, the guarantors party thereto and U.S. Bank National Association, as Trustee, relating to the 5.125% second priority senior secured notes due 2023 (incorporated by reference to Exhibit 4.2 to the Company's Form 8-K filed on June 5, 2015).
4.3	Indenture, dated as of October 1, 2015, by and between Berry Plastics Escrow Corporation, as Issuer, and U.S. Bank National Association, as Trustee, relating to the 6.00% second priority senior secured notes due 2022 (incorporated by reference to Exhibit 4.1 to the Company's Form 8-K filed on October 6, 2015).
4.4	First Supplemental Indenture, dated as of October 1, 2015, by and between Berry Plastics Corporation, Berry Plastics Group, Inc., the subsidiaries of Berry Plastics Corporation party thereto, Berry Plastics Escrow Corporation, and U.S. Bank National Association, as Trustee, relating to the Indenture, by and between Berry Plastics Escrow Corporation, as Issuer, and U.S. Bank, National Association, as Trustee, relating to the 6.00% second priority senior secured notes due 2022, dated October 1, 2015 (incorporated by reference to Exhibit 4.1 to the Company's Form 8-K filed on October 6, 2015).
4.5	Registration Rights Agreement, dated as of October 1, 2015, by and between Berry Plastics Corporation, Berry Plastics Group, Inc., each subsidiary of Berry Plastics Corporation identified therein, and Goldman, Sachs & Co., and Credit Suisse, on behalf of themselves and as representatives of the initial purchasers, relating to the 6.00% second priority senior secured notes due 2022 (incorporated by reference to Exhibit 4.1 to the Company's Form 8-K filed on October 6, 2015).
10. 1	\$650,000,000 Second Amended and Restated Revolving Credit Agreement, dated as of May 14, 2015, by and among Berry Plastics Corporation, Berry Plastics Group, Inc., certain domestic subsidiaries party thereto from time to time, Bank of America, N.A., as collateral agent and administrative agent, the lenders party thereto from time to time, and the financial institutions party thereto, which is attached to Amendment No. 4 to Amended and Restated Revolving Credit Agreement dated as of April 3, 2007 (incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed on May 14, 2015).
10. 2	U.S. \$1,200,000,000 Second Amended and Restated Credit Agreement, dated as of April 3, 2007, by and among Berry Plastics Corporation formerly known as Berry Plastics Holding Corporation, Berry Plastics Group, Inc., Credit Suisse, Cayman Islands Branch, as collateral and administrative agent, the lenders party thereto from time to time, and the other financial institutions party thereto (incorporated herein by reference to Exhibit 10.1(b) to Berry Plastics Corporation's (File No. 033-75706-01) Current Report on Form 8-K filed on April 10, 2007).
10. 3	* Second Amended and Restated Intercreditor Agreement, dated as of February 5, 2008, by and among Berry Plastics Group, Inc., Berry Plastics Corporation, certain subsidiaries identified as parties thereto, Bank of America, N.A. and Credit Suisse, Cayman Islands Branch as first lien agents, and U.S. Bank National Association, as successor in interest to Wells Fargo Bank, N.A., as trustee.
10. 4	U.S. \$1,400,000,000 Incremental Assumption Agreement, dated as of February 8, 2013, by and among Berry Plastics Group, Inc., Berry Plastics Corporation and certain of its subsidiaries referenced therein and Credit Suisse AG, Cayman Islands Branch (incorporated herein by reference to Exhibit 10.29 to the Registrant's Registration Statement on Form S-1 (Reg. No. 333-187740) filed on April 4, 2013).

- 10.5 U.S. \$1,125,000,000 Incremental Assumption Agreement, dated as of January 6, 2014, by and among Berry Plastics Group, Inc., Berry Plastics Corporation and certain of its subsidiaries referenced therein and Credit Suisse AG, Cayman Islands Branch as an incremental term lender, and Credit Suisse AG, Cayman Islands Branch as administrative agents for the lenders under the credit agreement referenced therein (incorporated herein by reference to Exhibit 10.2 to the Company's Form 10-Q filed on January 31, 2014).
- 10.6 \* U.S. \$2,100,000,000 Incremental Assumption Agreement and Amendment, dated as of October 1, 2015, by and among Berry Plastics Group, Inc., Berry Plastics Corporation and certain of its subsidiaries referenced therein and Credit Suisse AG, Cayman Islands Branch as an incremental term lender, and Credit Suisse AG, Cayman Islands Branch as administrative agents for the lenders under the credit agreement referenced therein.
- 10.7 Equipment Lease Agreement, dated as of June 24, 2010, between Gossamer Holdings, LLC, as Lessor, and Chicopee, Inc., as Lessee (incorporated by reference to Exhibit 10.1 to AVINTIV Specialty Materials Inc.'s Quarterly Report on Form 10-Q filed with the SEC on August 17, 2010).
- 10.8 Amendment and Waiver to Equipment Lease Agreement, dated as of January 19, 2011, between Chicopee, Inc., as Lessee and Gossamer Holdings, LLC, as Lessor (incorporated by reference to Exhibit 10.16 to AVINTIV Specialty Materials Inc.'s Registration Statement Form S-4 (Reg. No. 333-177497) filed on October 25, 2011).
- 10.9 Second Amendment to Equipment Lease Agreement, dated as of October 7, 2011, between Chicopee, Inc., as Lessee and Gossamer Holdings, LLC, as Lessor (incorporated by reference to Exhibit 10.17 to AVINTIV Specialty Materials Inc.'s Registration Statement Form S-4 (Reg. No. 333-177497) filed on October 25, 2011).
- 10.10 Third Amendment to Equipment Lease Agreement, dated as of February 28, 2012, between Chicopee, Inc., as Lessee and Gossamer Holdings, LLC, as Lessor (incorporated by reference to Exhibit 10.1 to AVINTIV Specialty Materials Inc.'s Quarterly Report on Form 10-Q filed on May 15, 2012).
- 10.11 Fourth Amendment to Equipment Lease Agreement, dated as of March 22, 2013, between Chicopee, Inc., as Lessee and Gossamer Holdings, LLC, as Lessor (incorporated by reference to Exhibit 10.1 to AVINTIV Specialty Materials Inc.'s Quarterly Report on Form 10-Q filed May 9, 2013).
- 10.12† 2006 Equity Incentive Plan (incorporated herein by reference to Exhibit 10.8 to Berry Plastics Corporation's Registration Statement Form S-4 (Reg. No. 333-138380) filed on November 2, 2006).
- 10.13† Amendment No. 2 to the Berry Plastics Group, Inc., 2006 Equity Incentive Plan (incorporated herein by reference to Exhibit 10.9 to the Company's Form 10-K filed on December 11, 2013).
- 10.14† Amendment No. 3 to Berry Plastics Group, Inc. 2006 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed on March 10, 2015).
- 10.15† Omnibus amendment to awards granted under the Berry Plastics Group, Inc., 2006 Long-Term Incentive Plan (incorporated herein by reference to Exhibit 10.10 to the Company's Form 10-K filed on December 11, 2013).

- 10.16† Form of Performance-Based Stock Option Agreement of Berry Plastics Group, Inc. (incorporated herein by reference to Exhibit 10.9 to Berry Plastics Corporation's Registration Statement Form S-4 (Reg. No. 333-138380) filed on November 2, 2006).
- 10.17† Form of Accreting Stock Option Agreement of Berry Plastics Group, Inc. (incorporated herein by reference to Exhibit 10.10 to Berry Plastics Corporation's Registration Statement Form S-4 (Reg. No. 333-138380) filed on November 2, 2006).
- 10.18† Form of Time-Based Stock Option Agreement of Berry Plastics Group, Inc. (incorporated herein by reference to Exhibit 10.11 to Berry Plastics Corporation's Registration Statement Form S-4 (Reg. No. 333-138380) filed on November 2, 2006).
- 10.19† Form of Performance-Based Stock Appreciation Rights Agreement of Berry Plastics Group, Inc. (incorporated herein by reference to Exhibit 10.12 to Berry Plastics Corporation's Registration Statement Form S-4 (Reg. No. 333-138380) filed on November 2, 2006).
- 10.20† Employment Agreement, dated April 3, 2007, between Berry Plastics Corporation and Thomas E. Salmon (incorporated herein by reference to Exhibit 10.20 of Berry Plastics Corporation's (File No. 033-75706-01) Annual Report on Form 10-K filed with the SEC on December 16, 2008).
- 10.21† Employment Agreement, dated October 1, 2010, between the Berry Plastics Corporation and Jonathan Rich (incorporated herein by reference to Exhibit 10.2 of Berry Plastics Corporation's (File No. 033-75706-01) Current Report on Form 8-K filed on October 6, 2010).
- 10.22 Form of common stock certificate of Berry Plastics Group, Inc. (incorporated by reference to Exhibit 4.27 of Amendment No. 5 to the Company's Registration Statement on Form S-1 (File No. 333-180294) filed on September 19, 2012).
- 10.23† Income Tax Receivable Agreement, dated as of November 29, 2012, by and among Berry Plastics Group, Inc. and Apollo Management Fund VI, L.P. (incorporated herein by reference to Exhibit 10.25 to the Company's Form 10-K filed on December 27, 2012).
- 10.24† Berry Plastics Group, Inc. Executive Bonus Plan (incorporated herein by reference to Exhibit 10.26 to the Company's Form 10-K filed on December 27, 2012).
- 10.25† Berry Plastics Group, Inc. 2012 Long-Term Incentive Plan (incorporated herein by reference to Exhibit 10.27 to the Company's Form 10-K filed on December 27, 2012).
- 10.26† Amendment No. 1 to the Berry Plastics Group, Inc. 2012 Long-Term Incentive Plan (incorporated herein by reference to Exhibit 10.31 to the Company's Form 10-K filed on December 11, 2013).
- 10.27† Omnibus amendment to awards granted under the Berry Plastics Group, Inc., 2012 Long-Term Incentive Plan (incorporated herein by reference to Exhibit 10.32 to the Company's Form 10-K filed on December 11, 2013).

10.28†	Amendment No. 2 to the Berry Plastics Group, Inc. 2012 Long-Term Incentive Plan (incorporated by reference to Exhibit 10.2 to the Company's Form 8-K filed on March 10, 2015).
10.29†	2015 Berry Plastics Group, Inc. Long-Term Incentive Plan (incorporated by reference to Exhibit 10.3 to the Company's Form 8-K filed on March 10, 2015).
10.30†	Fourth Amended and Restated Stockholders Agreement, by and among Berry Plastics Group, Inc., and the stockholders of the Corporation listed on schedule A thereto, dated as of January 15, 2015 (incorporated herein by reference to Exhibit 10.1 to the Company's Form 10-Q filed on January 30, 2015).
10.31†	Employment Agreement, dated January 1, 2002, between the Berry Plastics Corporation and Curtis Begle (incorporated herein by reference to Exhibit 10.1 to the Company's Form 10-Q filed on January 31, 2014).
10.32†	Amendment No. 1 to Employment Agreement, dated as of September 13, 2006, by and between the Berry Plastics Corporation and Curtis Begle (incorporated herein by reference to Exhibit 10.3 to the Company's Form 10-Q filed on January 31, 2014).
10.33†	Amendment No. 2 to Employment Agreement, dated December 31, 2008, by and between the Berry Plastics Corporation and Curtis Begle (incorporated herein by reference to Exhibit 10.4 to the Company's Form 10-Q filed on January 31, 2014).
10.34†	Amendment No. 3 to Employment Agreement, dated August 1, 2010, by and between the Berry Plastics Corporation and Curtis L. Begle (incorporated herein by reference to Exhibit 10.5 to the Company's Form 10-Q filed on January 31, 2014).
10.35†	Amendment No. 4 to Employment Agreement, dated December 16, 2011, by and between the Berry Plastics Corporation and Curtis L. Begle (incorporated herein by reference to Exhibit 10.6 to the Company's Form 10-Q filed on January 31, 2014).
12.1*	Computation of Ratio of Earnings to Fixed Charges.
21.1*	Subsidiaries of the Registrant.
23.1*	Consent of Independent Registered Public Accounting Firm
31.1*	Rule 13a-14(a)/15d-14(a) Certification of the Chief Executive Officer
31.2*	Rule 13a-14(a)/15d-14(a) Certification of the Chief Financial Officer
32.1*	Section 1350 Certification of the Chief Executive Officer
32.2*	Section 1350 Certification of the Chief Financial Officer
101.*	Interactive Data Files

\* Filed herewith.

† Management contract or compensatory plan or arrangement.





**SECOND AMENDED AND RESTATED INTERCREDITOR AGREEMENT**

THIS SECOND AMENDED AND RESTATED INTERCREDITOR AGREEMENT is dated as of February 5, 2008, among CREDIT SUISSE, CAYMAN ISLANDS BRANCH (“**Credit Suisse**”) and BANK OF AMERICA, N.A., in their capacities as administrative agent and collateral agent under the Term Credit Agreement and the Revolving Credit Agreement (as defined below), respectively, and BANK OF AMERICA, N.A., in its capacity as administrative agent and collateral agent under the Bridge Loan Credit Agreement (as defined below), and each Other First Priority Lien Obligations Collateral Agent (as defined below) from time to time party hereto, each in its capacity as First Lien Agent, WELLS FARGO BANK, N.A., as Second Priority Notes Trustee, BERRY PLASTICS GROUP, INC., a Delaware corporation (“**Holdings**”), Berry Plastics Corporation, a Delaware corporation, as a borrower under the Term Credit Agreement (as defined below), a borrower under the Revolving Credit Agreement (as defined below), and a borrower under the Bridge Loan Credit Agreement (the “**Company**”), each Subsidiary of the Company listed on Schedule I hereto or that becomes a party hereto pursuant to Section 8.21 below.

A. WHEREAS, the Company is party to: i) the Second Amended and Restated Term Loan Credit Agreement dated as of April 3, 2007 (as amended, amended and restated, replaced, refinanced, supplemented or otherwise modified from time to time, the “**Term Credit Agreement**”) among Holdings, the Company, the lenders party thereto from time to time, Credit Suisse, Cayman Islands Branch, as administrative agent, Deutsche Bank Securities Inc., as syndication agent, and Banc of America, Securities LLC, Citigroup Global Markets Inc., Goldman Sachs Credit Partners L.P., J.P. Morgan Securities Inc. and Lehman Brothers Inc., as co-documentation agents, ii) the Second Amended and Restated Revolving Credit Agreement dated as of April 3, 2007 (as amended, amended and restated, replaced, refinanced, supplemented or otherwise modified from time to time, the “**Revolving Credit Agreement**”) and together with the Term Credit Agreement individually and collectively referred to as the “**Credit Agreement**”) among Holdings, the Company, the lenders party thereto from time to time, Bank of America, N.A., as administrative agent, Goldman Sachs Credit Partners L.P., as syndication agent and Credit Suisse Securities (USA) LLC, Citigroup Global Markets Inc., Deutsche Bank AG New York Branch, J.P. Morgan Securities Inc. and Lehman Brothers Inc., as co-documentation agents, and iii) the Senior Secured Bridge Loan Credit Agreement dated as of February 5, 2007 (as amended, amended and restated, replaced, refinanced, supplemented or otherwise modified from time to time, the “**Bridge Loan Credit Agreement**”) among the Company, the lenders party thereto from time to time, Bank of America, N.A., as administrative agent, Goldman Sachs Credit Partners L.P., as syndication agent and Lehman Brothers Inc., as documentation agent and may become a party to Other First Priority Lien Obligations Credit Documents;

B. WHEREAS, the Company is party to the Indenture dated as of September 20, 2006 (as amended, amended and restated, replaced, refinanced, supplemented or otherwise modified from time to time, the “**Second Priority Senior Secured Notes Indenture**”), under which the Second Lien Fixed Rate Notes and the Second Lien Floating Rate Notes were

issued, among the Company, as obligor, the note guarantors as set forth therein (the “**Note Guarantors**”) and Wells Fargo Bank, N.A., as Trustee;

C. WHEREAS, it is the intent of the parties hereto that this Agreement not constitute a novation of the obligations and liabilities of the parties hereunder and that this Agreement be amended and restated in its entirety on the date hereof; and

D. WHEREAS, the parties to this Agreement (other than Bank of America, N.A., as Bridge Loan Administrative Agent and Bridge Loan Collateral Agent) are parties to that certain Amended and Restated Intercreditor Agreement by and among Credit Suisse and Bank of America, as first lien agents, Wells Fargo Bank, N.A., as trustee, Holdings, the Company and certain subsidiaries of the Company and intend that this Agreement amend and restate such agreement.

Accordingly, in consideration of the foregoing, the mutual covenants and obligations herein set forth and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

**SECTION 1. Definitions.**

1.1 Defined Terms

. As used in this Agreement, the following terms have the meanings specified below:

“**Affiliate**” shall mean, when used with respect to a specified person, another person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the person specified.

“**Agreement**” shall mean this Agreement, as amended, renewed, extended, supplemented or otherwise modified from time to time in accordance with the terms hereof.

“**Bankruptcy Law**” shall mean Title 11 of the United States Code and any similar Federal, state or foreign law for the relief of debtors.

“**Closing Date**” shall mean February 5, 2008.

“**Common Collateral**” shall mean all of the assets of any Grantor, whether real, personal or mixed, constituting both Senior Lender Collateral and Second Priority Collateral, including without limitation any assets in which the First Lien Agents are automatically deemed to have a Lien pursuant to the provisions of Section 2.3.

“**Company**” shall have the meaning set forth in the preamble.

“**Comparable Second Priority Collateral Document**” shall mean, in relation to any Common Collateral subject to any Lien created under any Senior Collateral Document, those Second Priority Collateral Documents that create a Lien on the same Common Collateral, granted by the same Grantor.

“**Credit Agreement**” shall have the meaning set forth in the recitals.

“**Domestic Subsidiary**” shall have the meaning set forth in the Term Credit Agreement.

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“**DIP Financing**” shall have the meaning set forth in Section 6.1.

“**Discharge of Senior Lender Claims**” shall mean, except to the extent otherwise provided in Section 5.7 below, payment in full in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of (a) all Obligations in respect of all outstanding Senior Lender Claims and, with respect to letters of credit or letter of credit guaranties outstanding thereunder, delivery of cash collateral or backstop letters of credit in respect thereof in compliance with the Revolving Credit Agreement, in each case after or concurrently with the termination of all commitments to extend credit thereunder and (b) any other Senior Lender Claims that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest are paid; provided that the Discharge of Senior Lender Claims shall not be deemed to have occurred if such payments are made with the proceeds of other Senior Lender Claims that constitute an exchange or replacement for or a refinancing of such Obligations or Senior Lender Claims. In the event the Senior Lender Claims are modified and the Obligations are paid over time or otherwise modified pursuant to Section 1129 of the Bankruptcy Code, the Senior Lender Claims shall be deemed to be discharged when the final payment is made, in cash, in respect of such indebtedness and any obligations pursuant to such new indebtedness shall have been satisfied.

“**First Lien Agent**” shall mean each of (a) Credit Suisse, Cayman Islands Branch, in its capacity as administrative agent and collateral agent for the Senior Lenders under the Term Credit Agreement and the other Senior Lender Documents entered into pursuant to the Term Credit Agreement, together with its successors in such capacity, (b) Bank of America, N.A., in its capacity as administrative agent and collateral agent for the Senior Lenders under the Revolving Credit agreement and the other Senior Lender Documents entered into pursuant to the Revolving Credit Agreement, together with its successors in such capacity, (c) Bank of America, N.A. in its capacity as administrative agent and collateral agent for the Bridge Loan Secured Parties under the Bridge Loan Credit Agreement and the other Bridge Loan Security Documents entered into pursuant to the Bridge Loan Credit Agreement, together with its successors in such capacity and (d) any Other First Priority Lien Obligations Collateral Agent and any Other First Priority Lien Obligations Administrative Agent.

“**Future Second Lien Indebtedness**” shall mean Indebtedness or Obligations (other than Noteholder Claims) of the Company and its Subsidiaries that are to be equally and ratably secured with the Noteholder Claims and are so designated by the Company as Future Second Lien Indebtedness; provided, however, that such Future Second Lien Indebtedness is permitted to be so incurred in accordance with any Senior Lender Documents and any Second Priority Documents, as applicable.

“**Grantors**” shall mean the Company, Holdings and each of the Company’s Subsidiaries that has executed and delivered a Second Priority Collateral Document or a Senior Collateral Document.

“**Indebtedness**” shall mean and include all obligations that constitute “Indebtedness” within the meaning of the Second Priority Senior Secured Notes Indenture, the Credit Agreement, the Bridge Loan Credit Agreement or the Other First Priority Lien Obligations Credit Documents.

“**Indenture Secured Parties**” shall mean the Persons holding Noteholder Claims, including the Trustee.

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**“Insolvency or Liquidation Proceeding”** shall mean (a) any voluntary or involuntary case or proceeding under any Bankruptcy Law with respect to any Grantor, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Grantor or with respect to any of its assets, (c) any liquidation, dissolution, reorganization or winding up of any Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy or (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Grantor.

**“Joinder Agreement”** shall mean an agreement in form and substance substantially similar to Exhibit A hereto, including with appropriate adjustments as permitted by Section 8.22 hereof.

**“Lien”** shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, hypothecation, pledge, charge, security interest or similar encumbrance in or on such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or an financing lease having substantially the same economic effect as any of the foregoing) relating to such asset.

**“Loan Parties”** shall mean Holdings, the Company and the Subsidiary Loan Parties.

**“Note Guarantors”** shall have the meaning set forth in the recitals.

**“Noteholder Claims”** shall mean all Obligations in respect of the Notes or arising under the Noteholder Documents or any of them, including all fees and expenses of the Trustee thereunder.

**“Noteholder Collateral”** shall mean all of the assets of any Grantor, whether real, personal or mixed, with respect to which a Lien is granted as security for any Noteholder Claim.

**“Noteholder Collateral Agreement”** shall mean the Collateral Agreement dated as of September 20, 2006, among the Company, certain other Grantors and the Trustee in respect of the Second Priority Senior Secured Notes Indenture.

**“Noteholder Collateral Documents”** shall mean the Noteholder Collateral Agreement and any other document or instrument pursuant to which a Lien is granted by any Grantor to secure any Noteholder Claims or under which rights or remedies with respect to any such Lien are governed.

**“Noteholder Documents”** shall mean (a) the Second Priority Senior Secured Notes Indenture, the Notes, the Noteholder Collateral Documents and (b) any other related document or instrument executed and delivered pursuant to any Noteholder Document described in clause (a) above evidencing or governing any Obligations thereunder.

**“Notes”** shall mean (a) (i) the initial \$525,000,000 in aggregate principal amount of 87/8% second priority senior secured fixed rate notes due 2014 and (ii) the initial \$225,000,000 in aggregate principal amount of second priority senior secured floating rate notes due 2014, each issued by the Company pursuant to the Second Priority Senior Secured Notes Indenture, (b) the exchange notes issued in exchange therefor as contemplated by the Registration Rights Agreement dated as of September 20, 2006, among the Company, certain

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of the Company's Subsidiaries and the initial purchasers party thereto and (c) any additional notes issued under the Second Priority Senior Secured Notes Indenture by the Company, to the extent permitted by the Second Priority Senior Secured Notes Indenture, the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents, any other Senior Lender Documents and any Second Priority Document, as applicable.

**"Obligations"** shall mean, with respect to any Person, any payment, performance or other obligations of such Person of any kind, including, without limitation, any liability of such Person on any claim, whether or not the right of any creditor to payment in respect of such claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured or unsecured, and whether or not such claim is discharged, stayed or otherwise affected by any Insolvency or Liquidation Proceeding. Without limiting the generality of the foregoing, the Obligations of any Grantor under any Senior Lender Document or Second Priority Document include the obligations to pay principal, interest (including interest accrued on or accruing after the commencement of any Insolvency or Liquidation Proceeding, whether or not a claim for post-filing interest is allowed in such proceeding) or premium on any Indebtedness, letter of credit commissions (if applicable), charges, expenses, fees, attorneys' fees and disbursements, indemnities and other amounts payable by such Grantor to reimburse any amount in respect of any of the foregoing that any Senior Lender or Second Priority Secured Party, in its sole discretion, may elect to pay or advance on behalf of such Grantor.

**"Officers' Certificate"** shall have the meaning set forth in the Second Priority Senior Secured Notes Indenture.

**"Person"** shall mean an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or other entity, or a government or any political subdivision or agency thereof.

**"Pledged Collateral"** shall mean the Common Collateral in the possession of any First Lien Agent (or its agents or bailees), to the extent that possession thereof perfects a Lien thereon under the Uniform Commercial Code.

**"Recovery"** shall have the meaning set forth in Section 6.4.

**"Required Lenders"** shall mean, with respect to any Senior Lender Documents, those Senior Lenders the approval of which is required to approve an amendment or modification of, termination or waiver of any provision of or consent to any departure from such Senior Lender Documents (or would be required to effect such consent under this Agreement if such consent were treated as an amendment of the Senior Lender Documents).

**"Second Lien Fixed Rate Notes"** shall mean the Borrower's 87/8% Second Priority Senior Secured Notes due 2014, issued pursuant to the Second Priority Senior Secured Notes Indenture and any notes issued by the Company in exchange for, and as contemplated by, the Second Lien Fixed Rate Notes and the related registration rights agreement with substantially identical terms as the Second Lien Fixed Rate Notes.

**"Second Lien Floating Rate Notes"** shall mean the Borrower's floating rate Second Priority Senior Secured Notes due 2014, issued pursuant to the Second Priority Senior Secured Notes Indenture and any notes issued by the Company in exchange for, and as

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contemplated by, the Second Lien Floating Rate Notes and the related registration rights agreement with substantially identical terms as the Second Lien Floating Rate Notes.

“**Second Priority Agents**” shall mean (a) the Trustee as agent for the Indenture Secured Parties and (b) the collateral agent for any Future Second Lien Indebtedness (including the Trustee).

“**Second Priority Claims**” shall mean the Noteholder Claims and all other Obligations in respect of, or arising under, the Second Priority Documents, including all fees and expenses of the collateral agent for any Future Second Lien Indebtedness.

“**Second Priority Collateral**” shall mean the Noteholder Collateral and all of the assets of any Grantor, whether real, personal or mixed, with respect to which a Lien is granted as security for any Future Second Lien Indebtedness.

“**Second Priority Collateral Agreements**” shall mean the Noteholder Collateral Agreement and any comparable agreement with respect to any Future Second Lien Indebtedness.

“**Second Priority Collateral Documents**” shall mean the Noteholder Collateral Documents and any other agreement, document or instrument pursuant to which a Lien is now or hereafter granted securing any Second Priority Claims or under which rights or remedies with respect to such Liens are at any time governed.

“**Second Priority Designated Agent**” shall mean such agent or trustee as is designated “Second Priority Designated Agent” by Second Priority Secured Parties holding a majority in principal amount of the Second Priority Claims then outstanding; it being understood that as of the date of this Agreement and for so long as any Obligations under the Second Priority Senior Secured Notes Indenture remain outstanding, the Trustee shall be so designated Second Priority Designated Agent.

“**Second Priority Documents**” shall mean the Noteholder Documents and any other document or instrument evidencing or governing any Future Second Lien Indebtedness.

“**Second Priority Lien**” shall mean any Lien on any assets of the Company or any other Grantor securing any Second Priority Claims.

“**Second Priority Secured Parties**” shall mean the Indenture Secured Parties and all other Persons holding any Second Priority Claims, including the collateral agent for any Future Second Lien Indebtedness.

“**Second Priority Senior Secured Notes Indenture**” shall have the meaning set forth in the recitals.

“**Secured Hedge Agreements**” shall mean each Swap Agreement that (i) is in effect on the Closing Date with a counterparty that is a Senior Lender or an Affiliate of a Senior Lender as of the Closing Date or (ii) is entered into after the Closing Date with any counterparty that is a Senior Lender or an Affiliate of a Senior Lender at the time such Swap Agreement is entered into.

“**Securities Account**” shall have the meaning set forth in the Uniform Commercial Code.

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“**Senior Collateral Agreement**” shall mean the Guarantee and Collateral Agreement dated as of April 3, 2007, among the Company, the other Grantors, Holdings and Credit Suisse, Cayman Islands Branch, and Bank of America, N.A. as collateral agents for the secured parties referred to therein.

“**Senior Collateral Documents**” shall mean the Senior Collateral Agreement, the Bridge Loan Security Agreement, the Other First Priority Lien Obligations Security Documents and any security agreement, mortgage or other agreement, document or instrument pursuant to which a Lien is now or hereafter granted securing any Senior Lender Claims or under which rights or remedies with respect to such Lien are at any time governed.

“**Senior Fixed Collateral Intercreditor Agreement**” shall mean the Senior Fixed Lender Intercreditor Agreement, dated as of February 5, 2008, among Bank of America, N.A., Credit Suisse, Cayman Islands Branch, Holdings, the Company and the subsidiaries of the Company party thereto.

“**Senior Lender Cash Management Obligations**” shall mean, with respect to any Grantor, the due and punctual payment and performance of all obligations of such Grantor in respect of overdrafts and related liabilities owed to a Senior Lender under the Revolving Credit Agreement or any of its Affiliates (or any other Person designated by the Company as a provider of cash management services and entitled to the benefit of the Senior Collateral Agreement) and arising from cash management services (including treasury, depository, overdraft, credit or debit card, electronic funds transfer, Automated Clearing House services and other cash management arrangements).

“**Senior Lender Claims**” shall mean all Obligations arising under the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents and any other Senior Lender Documents, whether or not such Obligations constitute Indebtedness, including, without limitation, (a) Obligations arising under Secured Hedge Agreements, (b) Senior Lender Cash Management Obligations and (c) Obligations under any credit agreement that is an exchange or replacement for or an extension, increase or refinancing of any other Senior Lender Claims. Senior Lender Claims shall include all interest and expenses accrued or accruing (or that would, absent the commencement of an Insolvency or Liquidation Proceeding, accrue) after the commencement of an Insolvency or Liquidation Proceeding in accordance with and at the rate specified in the relevant Senior Lender Documents whether or not the claim for such interest or expenses is allowed or allowable as a claim in such Insolvency or Liquidation Proceeding.

“**Senior Lender Collateral**” shall mean all of the assets of any Grantor, whether real, personal or mixed, with respect to which a Lien is granted as security for any Senior Lender Claim.

“**Senior Lender Documents**” shall mean the Term Loan Documents, the Revolving Facility Documents, the Bridge Loan Documents, the Other First Priority Lien Obligations Documents, the Senior Collateral Documents, the Senior Lender Intercreditor Agreement, the Senior Fixed Collateral Intercreditor Agreement and each of the other agreements, documents and instruments (including each agreement, document or instrument providing for or evidencing a Senior Lender Hedging Obligation or Senior Lender Cash Management Obligation) providing for, evidencing or securing any Senior Lender Claim, including, without limitation, any Obligation under the Credit Agreement and any other related

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document or instrument executed or delivered pursuant to any such document at any time or otherwise evidencing or securing any Indebtedness arising under any such document.

“**Senior Lender Hedging Obligations**” shall mean any Obligations under Secured Hedge Agreements.

“**Senior Lender Intercreditor Agreement**” shall mean the Second Amended and Restated Senior Lender Priority and Intercreditor Agreement dated as of February 5, 2008 among Credit Suisse, Cayman Islands Branch, as Term Facility Administrative Agent and Term Facility Collateral Agent, Bank of America, N.A., as Revolving Facility Administrative Agent, Revolving Facility Collateral Agent, Bridge Loan Administrative Agent and Bridge Loan Collateral Agent, Holdings, the Company and certain subsidiaries of Holdings, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“**Senior Lenders**” shall mean the Persons holding Senior Lender Claims, including the First Lien Agents.

“**Subsidiary**” shall mean any “Subsidiary” of the Company as defined in the Credit Agreement.

“**Subsidiary Loan Party**” shall mean (a) each Domestic Subsidiary of the Company on the Closing Date and (b) each Domestic Subsidiary of the Company that becomes, or is required to become, a party to the Senior Collateral Agreement, the Bridge Loan Security Agreement, any Other First Priority Lien Obligations Security Agreements and this Agreement after the Closing Date.

“**Swap Agreement**” shall mean any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities (including, for the avoidance of doubt, resin), equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided, that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of Holdings, the Company or any of the Subsidiaries shall be a Swap Agreement.

“**Trustee**” shall mean Wells Fargo Bank, N.A., in its capacity as trustee under the Second Priority Senior Secured Notes Indenture and as collateral agent under the Noteholder Collateral Documents, and its successors in such capacity.

“**Uniform Commercial Code**” or “**UCC**” shall mean the Uniform Commercial Code as from time to time in effect in the State of New York.

## 1.2 Terms Generally

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or

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otherwise modified in accordance with this Agreement, (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Sections shall be construed to refer to Sections of this Agreement and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) Capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Senior Lender Intercreditor Agreement.

## **SECTION 2. Lien Priorities.**

### **2.1 Subordination of Liens**

. Notwithstanding (i) the date, time, method, manner or order of filing or recordation of any document or instrument or grant, attachment or perfection (including any defect or deficiency or alleged defect or deficiency in any of the foregoing) of any Liens granted to the Second Priority Secured Parties on the Common Collateral or of any Liens granted to any First Lien Agent or Senior Lenders on the Common Collateral, (ii) any provision of the UCC, the Bankruptcy Code, or any applicable law or the Second Priority Documents or the Senior Lender Documents, (iii) whether any First Lien Agent, either directly or through agents, holds possession of, or has control over, all or any part of the Common Collateral, (iv) the fact that any such Liens may be subordinated, voided, avoided, invalidated or lapsed or (v) any other circumstance of any kind or nature whatsoever, each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, hereby agrees that: (a) any Lien on the Common Collateral securing any Senior Lender Claims now or hereafter held by or on behalf of any First Lien Agent or any Senior Lenders or any agent or trustee therefor regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall have priority over and be senior in all respects and prior to any Lien on the Common Collateral securing any Second Priority Claims and (b) any Lien on the Common Collateral securing any Second Priority Claims now or hereafter held by or on behalf of the Trustee or any Second Priority Secured Parties or any agent or trustee therefor regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in all respects to all Liens on the Common Collateral securing any Senior Lender Claims. All Liens on the Common Collateral securing any Senior Lender Claims shall be and remain senior in all respects and prior to all Liens on the Common Collateral securing any Second Priority Claims for all purposes, whether or not such Liens securing any Senior Lender Claims are subordinated to any Lien securing any other obligation of the Company, any other Grantor or any other Person.

### **2.2 Prohibition on Contesting Liens**

. Each Second Priority Agent, for itself and on behalf of each applicable Second Priority Secured Party, and each First Lien Agent, for itself and on behalf of each Senior Lender in respect of which it serves as First Lien Agent, agrees that it shall not (and hereby waives any right to) take any action to challenge, contest or support any other Person in contesting or challenging, directly or indirectly, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity, perfection, priority or enforceability of (a) a Lien securing any Senior Lender Claims held (or purported to be held) by or on behalf of any First Lien Agent or any of the Senior Lenders or any agent or trustee therefor in any Senior Lender Collateral or (b) a Lien securing any Second Priority Claims held (or purported to be held) by or on behalf of any Second Priority Secured Party in the Common

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Collateral, as the case may be; provided, however, that nothing in this Agreement shall be construed to prevent or impair the rights of any First Lien Agent or any Senior Lender to enforce this Agreement (including the priority of the Liens securing the Senior Lender Claims as provided in Section 2.1) or any of the Senior Lender Documents.

2.3 No New Liens

. So long as the Discharge of Senior Lender Claims has not occurred, each Second Priority Agent agrees, for itself and on behalf of each applicable Second Priority Secured Party, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, that it shall not acquire or hold any Lien on any assets of the Company or any other Grantor securing any Second Priority Claims that are not also subject to the first-priority Lien in respect of the Senior Lender Claims under the Senior Lender Documents. If any Second Priority Agent or any Second Priority Secured Party shall (nonetheless and in breach hereof) acquire or hold any Lien on any collateral that is not also subject to the first-priority Lien in respect of the Senior Lender Claims under the Senior Lender Documents, then such Second Priority Agent shall, without the need for any further consent of any party and notwithstanding anything to the contrary in any other document, be deemed to also hold and have held such lien for the benefit of the First Lien Agents as security for the Senior Lender Claims (subject to the lien priority and other terms hereof) and shall promptly notify each First Lien Agent in writing of the existence of such Lien and in any event take such actions as may be requested by any First Lien Agent to assign or release such Liens to the First Lien Agents (and/or each of its designee) as security for the applicable Senior Lender Claims.

2.4 Perfection of Liens

. Neither the First Lien Agents nor the Senior Lenders shall be responsible for perfecting and maintaining the perfection of Liens with respect to the Common Collateral for the benefit of the Second Priority Agents and the Second Priority Secured Parties. The provisions of this Agreement are intended solely to govern the respective Lien priorities as between the Senior Lenders and the Second Priority Secured Parties and shall not impose on the First Lien Agents, the Second Priority Agents, the Second Priority Secured Parties or the Senior Lenders or any agent or trustee therefor any obligations in respect of the disposition of proceeds of any Common Collateral which would conflict with prior perfected claims therein in favor of any other Person or any order or decree of any court or governmental authority or any applicable law.

2.5 Waiver of Marshalling

. Until the Discharge of Senior Lender Claims, the Second Priority Agent, on behalf of itself and the Second Priority Secured Parties, agrees not to assert and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or otherwise claim the benefit of, any marshalling, appraisal, valuation or other similar right that may otherwise be available under applicable law with respect to the Common Collateral or any other similar rights a junior secured creditor may have under applicable law.

**SECTION 3. Enforcement.**

3.1 Exercise of Remedies.

(a) So long as the Discharge of Senior Lender Claims has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, (i) no Second Priority Agent or any Second Priority Secured Party will (x) exercise or seek to exercise any rights or remedies (including setoff or recoupment) with respect to any Common Collateral or any other security in respect of any

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applicable Second Priority Claims, or exercise any right under any lockbox agreement, control agreement, landlord waiver or bailee's letter or similar agreement or arrangement, or institute any action or proceeding with respect to such rights or remedies (including any action of foreclosure), contest, protest or object to any foreclosure proceeding or action brought with respect to the Common Collateral or any other collateral by any First Lien Agent or any Senior Lender in respect of the Senior Lender Claims, the exercise of any right by any First Lien Agent or any Senior Lender (or any agent or sub-agent on their behalf) in respect of the Senior Lender Claims under any lockbox agreement, control agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which any Second Priority Agent or any Second Priority Secured Party either is a party or may have rights as a third party beneficiary, or any other exercise by any such party, of any rights and remedies relating to the Common Collateral or any other collateral under the Senior Lender Documents or otherwise in respect of Senior Lender Claims, or (z) object to the forbearance by the Senior Lenders from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Common Collateral or any other collateral in respect of Senior Lender Claims and (ii) except as otherwise provided herein, each First Lien Agent and the Senior Lenders shall have the exclusive right to enforce rights, exercise remedies (including setoff and the right to credit bid their debt) and make determinations regarding the release, disposition or restrictions with respect to the Common Collateral without any consultation with or the consent of any Second Priority Agent or any Second Priority Secured Party; provided, however, that (A) in any Insolvency or Liquidation Proceeding commenced by or against the Company or any other Grantor, each Second Priority Agent may file a proof of claim or statement of interest with respect to the applicable Second Priority Claims and (B) each Second Priority Agent may take any action (not adverse to the prior Liens on the Common Collateral securing the Senior Lender Claims, or the rights of either First Lien Agent or the Senior Lenders to exercise remedies in respect thereof) in order to create, prove, perfect, preserve or protect (but not enforce) its rights in, and perfection and priority of its Lien on, the Common Collateral. In exercising rights and remedies with respect to the Senior Lender Collateral, each First Lien Agent and the Senior Lenders may enforce the provisions of the Senior Lender Documents and exercise remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole discretion. Such exercise and enforcement shall include the rights of an agent appointed by them to sell or otherwise dispose of Common Collateral or other collateral upon foreclosure, to incur expenses in connection with such sale or disposition, and to exercise all the rights and remedies of a secured lender under the uniform commercial code of any applicable jurisdiction and of a secured creditor under Bankruptcy Laws of any applicable jurisdiction.

(b) So long as the Discharge of Senior Lender Claims has not occurred, each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, agrees that it will not take or receive any Common Collateral or other collateral or any proceeds of Common Collateral or other collateral in connection with the exercise of any right or remedy (including setoff or recoupment) with respect to any Common Collateral or other collateral in respect of the applicable Second Priority Claims. Without limiting the generality of the foregoing, unless and until the Discharge of Senior Lender Claims has occurred, except as expressly provided in the proviso in clause (ii) of Section 3.1(a), the sole right of the Second Priority Agents and the Second Priority Secured Parties with respect to the Common Collateral or any other collateral is to hold a Lien on the Common Collateral or such other collateral in respect of the applicable Second Priority Claims pursuant to the Second Priority Documents, as applicable, for the period and to the extent granted therein and

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to receive a share of the proceeds thereof, if any, after the Discharge of Senior Lender Claims has occurred.

(c) Subject to the proviso in clause (ii) of Section 3.1(a) above, (i) each Second Priority Agent, for itself and on behalf of each applicable Second Priority Secured Party, agrees that no Second Priority Agent or any Second Priority Secured Party will take any action that would hinder any exercise of remedies undertaken by any First Lien Agent or Senior Lenders with respect to the Common Collateral or any other collateral under the Senior Lender Documents, including any sale, lease, exchange, transfer or other disposition of the Common Collateral or such other collateral, whether by foreclosure or otherwise, and (ii) each Second Priority Agent, for itself and on behalf of each applicable Second Priority Secured Party, hereby waives any and all rights it or any Second Priority Secured Party may have as a junior lien creditor or otherwise to object to the manner in which any First Lien Agent or Senior Lenders seek to enforce or collect the Senior Lender Claims or the Liens granted in any of the Senior Lender Collateral, regardless of whether any action or failure to act by or on behalf of any First Lien Agent or Senior Lenders is adverse to the interests of the Second Priority Secured Parties.

(d) Each Second Priority Agent hereby acknowledges and agrees that no covenant, agreement or restriction contained in any applicable Second Priority Document shall be deemed to restrict in any way the rights and remedies of any First Lien Agent or Senior Lenders with respect to the Senior Lender Collateral as set forth in this Agreement and the Senior Lender Documents.

### 3.2 Cooperation

. Subject to the proviso in clause (ii) of Section 3.1(a), each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, agrees that, unless and until the Discharge of Senior Lender Claims has occurred, it will not commence, or join with any Person (other than the Senior Lenders and any First Lien Agent upon the request thereof) in commencing, any enforcement, collection, execution, levy or foreclosure action or proceeding with respect to any Lien held by it in the Common Collateral or any other collateral under any of the applicable Second Priority Documents or otherwise in respect of the applicable Second Priority Claims relating to the Common Collateral.

### 3.3 Actions Upon Breach

. If any Second Priority Secured Party, in contravention of the terms of this Agreement, in any way takes, attempts to or threatens to take any action with respect to the Common Collateral (including, without limitation, any attempt to realize upon or enforce any remedy with respect to this Agreement), this Agreement shall create an irrebuttable presumption and admission by such Second Priority Secured Party that relief against such Second Priority Secured Party by injunction, specific performance and/or other appropriate equitable relief is necessary to prevent irreparable harm to the Senior Lenders, it being understood and agreed by the Trustee on behalf of each Second Priority Secured Party that (i) the Senior Lenders' damages from its actions may at that time be difficult to ascertain and may be irreparable, and (ii) each Second Priority Secured Party waives any defense that the Grantors and/or the Senior Lenders cannot demonstrate damage and/or can be made whole by the awarding of damages.

## **SECTION 4. Payments.**

### 4.1 Application of Proceeds

. So long as the Discharge of Senior Lender Claims has not occurred, the Common Collateral and any other collateral in respect of the Second Priority Claims or proceeds thereof received in connection with the sale or other disposition of, or

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collection on, such Common Collateral or other collateral upon the exercise of remedies as a secured party, shall be applied by the First Lien Agents to the Senior Lender Claims in such order as specified in the relevant Senior Lender Documents until the Discharge of Senior Lender Claims has occurred. Upon the Discharge of Senior Lender Claims, subject to Section 5.7 hereof, each of the First Lien Agents shall deliver promptly to the Second Priority Designated Agent any Common Collateral or proceeds thereof held by it in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct to be applied by the Second Priority Designated Agent ratably to the Second Priority Claims in such order as specified in the Second Priority Documents.

#### 4.2 Payments Over.

Any Common Collateral or other collateral in respect of the Second Priority Claims or proceeds thereof received by any Second Priority Agent or any Second Priority Secured Party in connection with the exercise of any right or remedy (including setoff or recoupment) relating to the Common Collateral or such other collateral prior to the Discharge of Senior Lender Claims shall be segregated and held in trust for the benefit of and forthwith paid over to the Applicable Collateral Agent (as such term is defined in the Senior Lender Intercreditor Agreement) (and/or its designees) for the benefit of the Senior Lenders in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. The First Lien Agents are each hereby individually authorized to make any such endorsements as agent for any Second Priority Agent or any such Second Priority Secured Party. This authorization is coupled with an interest and is irrevocable.

### **SECTION 5. Other Agreements.**

#### 5.1 Releases.

(a) If, at any time any Grantor or the holder of any Senior Lender Claim delivers notice to each Second Priority Agent that any specified Common Collateral (including all or substantially all of the equity interests of a Grantor or any of its Subsidiaries) (including for such purpose, in the case of the sale of equity interests in any Subsidiary, any Common Collateral held by such Subsidiary or any direct or indirect Subsidiary thereof) is (A) sold, transferred or otherwise disposed of:

(i) by the owner of such Common Collateral in a transaction permitted under each Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture and each other Senior Lender Document and Second Priority Document (if any); or

(ii) during the existence of any Event of Default under (and as defined in) any Credit Agreement, the Bridge Loan Credit Agreement or the Other First Priority Lien Obligations Credit Documents to the extent that any of the First Lien Agents has consented to such sale, transfer or disposition;

(B) or otherwise released as permitted by each Credit Agreement, the Bridge Loan Credit Agreement and the Other First Priority Lien Obligations Credit Documents,

then (whether or not any Insolvency or Liquidation Proceeding is pending at the time) the Liens in favor of the Second Priority Secured Parties upon such Common Collateral will automatically be released and discharged as and when, but only to the extent, such Liens on

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such Common Collateral securing Senior Lender Claims are released and discharged. Upon delivery to each Second Priority Agent of a notice from any First Lien Agent stating that any release of Liens securing or supporting the Senior Lender Claims has become effective (or shall become effective upon each Second Priority Agent's release) (whether in connection with a sale of such assets by the relevant Grantor pursuant to the preceding sentence or otherwise), each Second Priority Agent will promptly execute and deliver such instruments, releases, termination statements or other documents confirming such release on customary terms at the expense of the Company. In the case of the sale of all or substantially all of the capital stock of a Grantor or any of its Subsidiaries, the guarantee in favor of the Second Priority Secured Parties, if any, made by such Grantor or Subsidiary will automatically be released and discharged as and when, but only to the extent, the guarantee by such Grantor or Subsidiary of Senior Lender Claims is released and discharged.

(b) Each Second Priority Agent, for itself and on behalf of each applicable Second Priority Secured Party, hereby irrevocably constitutes and appoints each First Lien Agent and any officer or agent of such First Lien Agent, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of each Second Priority Agent or such holder or in such First Lien Agent's own name, from time to time in such First Lien Agent's discretion, for the purpose of carrying out the terms of this Section 5.1, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Section 5.1, including any termination statements, endorsements or other instruments of transfer or release.

(c) Unless and until the Discharge of Senior Lender Claims has occurred, each Second Priority Agent, for itself and on behalf of each applicable Second Priority Secured Party, hereby consents to the application, whether prior to or after a default, of proceeds of Common Collateral or other collateral to the repayment of Senior Lender Claims pursuant to the Senior Lender Intercreditor Agreement, the Senior Fixed Collateral Intercreditor Agreement and the other Senior Lender Documents; provided that nothing in this Section 5.1(c) shall be construed to prevent or impair the rights of the Second Priority Agents or the Second Priority Secured Parties to receive proceeds in connection with the Second Priority Claims not otherwise in contravention of this Agreement.

## 5.2 Insurance

. Unless and until the Discharge of Senior Lender Claims has occurred, each First Lien Agent and the Senior Lenders shall have the sole and exclusive right, subject to the rights of the Grantors under the Senior Lender Documents, to adjust settlement for any insurance policy covering the Common Collateral or any other collateral in respect of the Second Priority Claims in the event of any loss thereunder and to approve any award granted in any condemnation or similar proceeding affecting the Common Collateral or such other collateral. Unless and until the Discharge of Senior Lender Claims has occurred, all proceeds of any such policy and any such award if in respect of the Common Collateral or such other collateral shall be paid (a) first, prior to the occurrence of the Discharge of Senior Lender Claims, to the First Lien Agents for the benefit of Senior Lenders pursuant to the terms of the Senior Lender Documents and the Senior Lender Intercreditor Agreement, (b) second, after the occurrence of the Discharge of Senior Lender Claims, to the Second Priority Agents for the benefit of the Second Priority Secured Parties pursuant to the terms of the applicable Second Priority Documents and (c) third, if no Second Priority Claims are outstanding, to the owner of the subject property, such other person as may be entitled thereto or as a court of competent jurisdiction may otherwise direct. If any Second Priority Agent or any Second

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Priority Secured Party shall, at any time, receive any proceeds of any such insurance policy or any such award in contravention of this Agreement, it shall pay such proceeds over to any First Lien Agent in accordance with the terms of Section 4.2.

5.3 Amendments to Second Priority Collateral Documents.

(a) So long as the Discharge of Senior Lender Claims has not occurred, without the prior written consent of the First Lien Agents and the Required Lenders, no Second Priority Collateral Document may be amended, supplemented or otherwise modified or entered into to the extent such amendment, supplement or modification, or the terms of any new Second Priority Collateral Document, would be prohibited by or inconsistent with any of the terms of this Agreement. Each Second Priority Agent agrees that each applicable Second Priority Collateral Document executed as of the date hereof shall include the following language (or language to similar effect approved by the First Lien Agents):

“Notwithstanding anything herein to the contrary, (i) the liens and security interests granted to the [applicable Second Priority Agent] pursuant to this agreement are expressly subject and subordinate to the liens and security interests granted to Bank of America, N.A. and Credit Suisse, Cayman Islands Branch, as collateral agents (and their respective permitted successors), for the benefit of the lenders referred to below, pursuant to the Guarantee and Collateral Agreement dated as of April 3, 2007 (as amended, amended and restated, supplemented or otherwise modified from time to time), from the Company and the other “Pledgors” referred to therein, in favor of Bank of America, N.A. and Credit Suisse, Cayman Islands Branch, as collateral agents and to the liens and security interests granted to Bank of America, N.A. as the Bridge Loan Collateral Agent pursuant to the Bridge Loan Guarantee and Collateral Agreement dated as of February 5, 2008 (as amended, supplemented or otherwise modified from time to time) [and] to the liens and security interests granted to [Other First Priority Lien Obligations Collateral Agent] pursuant to [Other First Priority Lien Obligations Security Document (as amended, supplemented or otherwise modified from time to time)], and (ii) the exercise of any right or remedy by the [applicable Second Priority Agent] hereunder is subject to the limitations and provisions of the Second Amended and Restated Intercreditor Agreement dated as of February 5, 2008 (as amended, restated, supplemented or otherwise modified from time to time, the “**Intercreditor Agreement**”), by and among Credit Suisse, Cayman Islands Branch and Bank of America, N.A. in their capacities as First Lien Agents, Wells Fargo Bank, N.A., Holdings, the Company and the subsidiaries party thereto. In the event of any conflict between the terms of the Intercreditor Agreement and the terms of this agreement, the terms of the Intercreditor Agreement shall govern.”

(b) In the event that the First Lien Agents or the Senior Lenders enter into any amendment, waiver or consent in respect of or replace any of the Senior Collateral Document for the purpose of adding to, or deleting from, or waiving or consenting to any departures from any provisions of, any Senior Collateral Document or changing in any manner the rights of the First Lien Agents, the Senior Lenders, the Company or any other Grantor thereunder (including the release of any Liens in Senior Lender Collateral), then such amendment, waiver or consent shall apply automatically to any comparable provision of each Comparable Second Priority Collateral Document without the consent of any Second Priority Agent or any Second Priority Secured Party and without any action by any Second Priority Agent, the Company or any other Grantor; provided, that such amendment, waiver or consent does not materially adversely affect the rights of the Second Priority Secured Parties or the interests of the Second Priority Secured Parties in the Second Priority Collateral and not the other

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creditors of the Company or such Grantor, as the case may be, that have a security interest in the affected collateral in a like or similar manner (without regard to the fact that the Lien of such Senior Collateral Document is senior to the Lien of the Comparable Second Priority Collateral Document). The relevant First Lien Agent may give written notice of such amendment, waiver or consent to each Second Priority Agent; provided that the failure to give such notice shall not affect the effectiveness of such amendment, waiver or consent with respect to the provisions of any Second Priority Collateral Document as set forth in this Section 5.3(b).

(c) Anything contained herein to the contrary notwithstanding, until the Discharge of Senior Lender Claims has occurred, no Second Priority Collateral Document may be amended, supplemented or otherwise modified or entered into without the prior written consent of the First Lien Agents and, without limitation on the foregoing, no Second Priority Collateral Document shall be entered into unless the collateral covered thereby is also subject to a perfected first-priority interest in favor of the First Lien Agents for the benefit of the Senior Lenders pursuant to the Senior Collateral Documents.

#### 5.4 Rights As Unsecured Creditors

Notwithstanding anything to the contrary in this Agreement, the Second Priority Agents and the Second Priority Secured Parties may exercise rights and remedies as an unsecured creditor against the Company or any Subsidiary that has guaranteed the Second Priority Claims in accordance with the terms of the applicable Second Priority Documents and applicable law, in each case to the extent not inconsistent with the provisions of this Agreement. Nothing in this Agreement shall prohibit the receipt by any Second Priority Agent or any Second Priority Secured Party of the required payments of interest and principal so long as such receipt is not the direct or indirect result of (a) the exercise by any Second Priority Agent or any Second Priority Secured Party of rights or remedies as a secured creditor in respect of Common Collateral or other collateral or (b) enforcement in contravention of this Agreement of any Lien in respect of Second Priority Claims held by any of them. In the event any Second Priority Agent or any Second Priority Secured Party becomes a judgment lien creditor or other secured creditor in respect of Common Collateral or other collateral as a result of its enforcement of its rights as an unsecured creditor in respect of Second Priority Claims or otherwise, such judgment or other lien shall be subordinated to the Liens securing Senior Lender Claims on the same basis as the other Liens securing the Second Priority Claims are so subordinated to such Liens securing Senior Lender Claims under this Agreement. Nothing in this Agreement impairs or otherwise adversely affects any rights or remedies the First Lien Agents or the Senior Lenders may have with respect to the Senior Lender Collateral.

#### 5.5 First Lien Agents as Gratuitous Bailees for Perfection.

(a) Each First Lien Agent agrees to hold the Pledged Collateral that is part of the Common Collateral that is in its possession or control (or in the possession or control of its agents or bailees) as gratuitous bailee for each Second Priority Agent and any assignee solely for the purpose of perfecting the security interest granted in such Pledged Collateral pursuant to the Second Priority Collateral Agreements, subject to the terms and conditions of this Section 5.5 (such bailment being intended, among other things, to satisfy the requirements of Sections 8-106(d)(3), 8-301(a)(2) and 9-313(c) of the UCC).

(b) In the event that any First Lien Agent (or its agent or bailees) has Lien filings against Intellectual Property (as defined in the Senior Collateral Agreement and the Bridge Loan Security Agreement) that is part of the Common Collateral that are necessary for the

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perfection of Liens in such Common Collateral, such First Lien Agent agrees to hold such Liens as gratuitous bailee for each Second Priority Agent and any assignee solely for the purpose of perfecting the security interest granted in such Liens pursuant to the Second Priority Collateral Agreements, subject to the terms and conditions of this Section 5.5.

(c) Except as otherwise specifically provided herein (including Sections 3.1 and 4.1), until the Discharge of Senior Lender Claims has occurred, any First Lien Agent shall be entitled to deal with the Pledged Collateral in accordance with the terms of the Senior Lender Intercreditor Agreement, the Senior Fixed Collateral Intercreditor Agreement and the other Senior Lender Documents as if the Liens under the Second Priority Collateral Documents did not exist. The rights of the Second Priority Agents and the Second Priority Secured Parties with respect to such Pledged Collateral shall at all times be subject to the terms of this Agreement.

(d) The First Lien Agents shall have no obligation whatsoever to any Second Priority Agent or any Second Priority Secured Party to assure that the Pledged Collateral is genuine or owned by the Grantors or to protect or preserve rights or benefits of any Person or any rights pertaining to the Common Collateral except as expressly set forth in this Section 5.5. The duties or responsibilities of the First Lien Agents under this Section 5.5 shall be limited solely to holding the Pledged Collateral as gratuitous bailee for each Second Priority Agent for purposes of perfecting the Lien held by the Second Priority Secured Parties.

(e) The First Lien Agents shall not have by reason of the Second Priority Collateral Documents or this Agreement or any other document a fiduciary relationship in respect of any Second Priority Agent or any Second Priority Secured Party and the Second Priority Agents and the Second Priority Secured Parties hereby waive and release the First Lien Agents from all claims and liabilities arising pursuant to the First Lien Agents' role under this Section 5.5, as agent and gratuitous bailee with respect to the Common Collateral.

(f) Upon the Discharge of Senior Lender Claims, the relevant First Lien Agent shall deliver to the Second Priority Designated Agent, to the extent that it is legally permitted to do so, the remaining Pledged Collateral (if any) and to the extent such Pledged Collateral is in the possession or control of such First Lien Agent (or its agents or bailees) together with any necessary endorsements (or otherwise allow the Second Priority Designated Agent to obtain control of such Pledged Collateral) or as a court of competent jurisdiction may otherwise direct. The Company shall take such further action as is required to effectuate the transfer contemplated hereby and shall indemnify the First Lien Agents for loss or damage suffered by any First Lien Agent as a result of such transfer except for loss or damage suffered by any First Lien Agent as a result of its own willful misconduct, gross negligence or bad faith. The First Lien Agents have no obligation to follow instructions from any Second Priority Agent in contravention of this Agreement.

(g) Neither the First Lien Agents nor the Senior Lenders shall be required to marshal any present or future collateral security for the Company's or its Subsidiaries' obligations to the First Lien Agents or the Senior Lenders under the Credit Agreement, the Senior Collateral Documents or the Senior Lender Intercreditor Agreement or any assurance of payment in respect thereof or to resort to such collateral security or other assurances of payment in any particular order, and all of their rights in respect of such collateral security or any assurance of payment in respect thereof shall be cumulative and in addition to all other rights, however existing or arising.

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5.6 Second Priority Designated Agent as Gratuitous Bailee for Perfection.

(a) Upon the Discharge of Senior Lender Claims, the Second Priority Designated Agent agrees to hold the Pledged Collateral that is part of the Common Collateral in its possession or control (or in the possession or control of its agents or bailees) as gratuitous bailee for the other Second Priority Agents and any assignee solely for the purpose of perfecting the security interest granted in such Pledged Collateral pursuant to the applicable Second Priority Collateral Agreement, subject to the terms and conditions of this Section 5.6.

(b) In the event that the Second Priority Designated Agent (or its agent or bailees) has Lien filings against Intellectual Property (as defined in the Senior Collateral Agreement and the Bridge Loan Security Agreement) that is part of the Common Collateral that are necessary for the perfection of Liens in such Common Collateral, upon the Discharge of Senior Lender Claims, the Second Priority Designated Agent agrees to hold such Liens as gratuitous bailee for the other Second Priority Agents and any assignee solely for the purpose of perfecting the security interest granted in such Liens pursuant to the applicable Second Priority Collateral Agreement, subject to the terms and conditions of this Section 5.6.

(c) The Second Priority Designated Agent, in its capacity as gratuitous bailee, shall have no obligation whatsoever to the other Second Priority Agents to assure that the Pledged Collateral is genuine or owned by the Grantors or to protect or preserve rights or benefits of any Person or any rights pertaining to the Common Collateral except as expressly set forth in this Section 5.6. The duties or responsibilities of the Second Priority Designated Agent under this Section 5.6 upon the Discharge of Senior Lender Claims shall be limited solely to holding the Pledged Collateral as gratuitous bailee for the other Second Priority Agents for purposes of perfecting the Lien held by the applicable Second Priority Secured Parties.

(d) The Second Priority Designated Agent shall not have by reason of the Second Priority Collateral Documents or this Agreement or any other document a fiduciary relationship in respect of the other Second Priority Agents (or the Second Priority Secured Parties for which such other Second Priority Agents are agents) and the other Second Priority Agents hereby waive and release the Second Priority Designated Agent from all claims and liabilities arising pursuant to the Second Priority Designated Agent's role under this Section 5.6, as agent and gratuitous bailee with respect to the Common Collateral.

(e) In the event that the Second Priority Designated Agent shall cease to be so designated the Second Priority Designated Agent pursuant to the definition of such term, the then Second Priority Designated Agent shall deliver to the successor Second Priority Designated Agent, to the extent that it is legally permitted to do so, the remaining Pledged Collateral (if any), together with any necessary endorsements (or otherwise allow the successor Second Priority Designated Agent to obtain control of such Pledged Collateral) or as a court of competent jurisdiction may otherwise direct, and such successor Second Priority Designated Agent shall perform all duties of the Second Priority Designated Agent as set forth herein. The Company shall take such further action as is required to effectuate the transfer contemplated hereto and shall indemnify the Second Priority Designated Agent for loss or damage suffered by the Second Priority Designated Agent as a result of such transfer except for loss or damage suffered by the Second Priority Designated Agent as a result of its own willful misconduct, gross negligence or bad faith. The Second Priority Designated Agent has no obligation to follow instructions from the successor Second Priority Designated Agent in contravention of this Agreement.

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5.7 Release Upon Discharge of Senior Lender Claims; No Release If Event of Default; Reinstatement.

(a) Except as otherwise provided in clause (b) of this Section 5.7, upon the Discharge of Senior Lender Claims and the concurrent release of the Liens securing Senior Lender Claims, the Liens in favor of the Second Priority Secured Parties shall automatically be released and discharged.

(b) Notwithstanding any other provisions contained in this Agreement, if an Event of Default (as defined in the Second Priority Senior Secured Notes Indenture or any other Second Priority Document, as applicable) exists on the date of Discharge of Senior Lender Claims, the Second Priority Liens on the Second Priority Collateral securing the Second Priority Claims relating to such Event of Default will not be released, except to the extent such Second Priority Collateral or any portion thereof was disposed of in order to repay Senior Lender Claims secured by such Second Priority Collateral, and thereafter the applicable Second Priority Agent will have the right to foreclose upon such Second Priority Collateral (but in such event, the Liens on such Second Priority Collateral securing the applicable Second Priority Claims will be released when such Event of Default and all other Events of Default under the Second Priority Senior Secured Notes Indenture or any other Second Priority Document, as applicable, cease to exist).

(c) If, at any time after the Discharge of Senior Lender Claims has occurred, the Company incurs and designates any Senior Lender Claims, then such Discharge of Senior Lender Claims shall automatically be deemed not to have occurred for all purposes of this Agreement (other than with respect to any actions taken prior to the date of such designation as a result of the occurrence of such first Discharge of Senior Lender Claims), and the applicable agreement governing such Senior Lender Claims shall automatically be treated as the Credit Agreement for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Common Collateral set forth herein and the granting by the First Lien Agents of amendments, waivers and consents hereunder. Upon receipt of notice of such designation (including the identity of any new First Lien Agent), each Second Priority Agent shall promptly (i) enter into such documents and agreements (at the expense of the Company), including amendments or supplements to this Agreement, as the Company or such new First Lien Agent shall reasonably request in writing in order to provide the new First Lien Agent the rights of the First Lien Agents contemplated hereby and (ii) to the extent then held by any Second Priority Agent, deliver to either First Lien Agent the Pledged Collateral that is Common Collateral together with any necessary endorsements (or otherwise allow such First Lien Agent to obtain possession or control of such Pledged Collateral).

**SECTION 6. Insolvency or Liquidation Proceedings.**

6.1 Financing Issues

If the Company or any other Grantor shall be subject to any Insolvency or Liquidation Proceeding and any First Lien Agent shall desire to permit the use of cash collateral or to permit the Company or any other Grantor to obtain financing under Section 363 or Section 364 of Title 11 of the United States Code or any similar provision in any Bankruptcy Law ("**DIP Financing**"), then each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, agrees that it will raise no objection to, and will not support any objection to, and will not otherwise contest (a) such use of cash collateral or DIP Financing and will not request adequate protection or any other relief in connection therewith (except to the extent permitted by Section 6.3) and, to the extent the Liens securing the Senior Lender Claims under the Senior Lender Documents are

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subordinated or pari passu with such DIP Financing, will subordinate its Liens in the Common Collateral and any other collateral to such DIP Financing (and all Obligations relating thereto) on the same basis as the other Liens securing the Second Priority Claims are so subordinated to Liens securing Senior Lender Claims under this Agreement, (b) any motion for relief from the automatic stay or from any injunction against foreclosure or enforcement in respect of Senior Lender Claims made by any First Lien Agent or any holder of Senior Lender Claims, (c) any lawful exercise by any holder of Senior Lender Claims of the right to credit bid Senior Lender Claims at any sale in foreclosure of Senior Lender Collateral, (d) any other request for judicial relief made in any court by any holder of Senior Lender Claims relating to the lawful enforcement of any Lien on Senior Lender Collateral or (e) any order relating to a sale of assets of any Grantor for which any First Lien Agent has consented that provides, to the extent the sale is to be free and clear of Liens, that the Liens securing the Senior Lender Claims and the Second Priority Claims will attach to the proceeds of the sale on the same basis of priority as the Liens securing the Senior Lender Collateral do to the Liens securing the Second Priority Collateral in accordance with this Agreement.

## 6.2 Relief from the Automatic Stay

. Until the Discharge of Senior Lender Claims has occurred, each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, agrees that none of them shall seek relief from the automatic stay or any other stay in any Insolvency or Liquidation Proceeding in respect of the Common Collateral or any other collateral, without the prior written consent of all First Lien Agents and Required Lenders.

## 6.3 Adequate Protection

. Each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, agrees that none of them shall contest (or support any other Person contesting) (a) any request by any First Lien Agent or Senior Lenders for adequate protection or (b) any objection by any First Lien Agent or Senior Lenders to any motion, relief, action or proceeding based on such First Lien Agent's or the Senior Lenders' claiming a lack of adequate protection. Notwithstanding the foregoing, in any Insolvency or Liquidation Proceeding, (i) if the Senior Lenders (or any subset thereof) are granted adequate protection in the form of additional collateral in connection with any DIP Financing or use of cash collateral under Section 363 or Section 364 of Title 11 of the United States Code or any similar Bankruptcy Law, then each Second Priority Agent, on behalf of itself and any applicable Second Priority Secured Party, (A) may seek or request adequate protection in the form of a replacement Lien on such additional collateral, which Lien is subordinated to the Liens securing the Senior Lender Claims and such DIP Financing (and all Obligations relating thereto) on the same basis as the other Liens securing the Second Priority Claims are so subordinated to the Liens securing Senior Lender Claims under this Agreement and (B) agrees that it will not seek or request, and will not accept, adequate protection in any other form, and (ii) in the event any Second Priority Agent, on behalf of itself or any applicable Second Priority Secured Party, seeks or requests adequate protection and such adequate protection is granted in the form of additional collateral, then such Second Priority Agent, on behalf of itself or each such Second Priority Secured Party, agrees that the First Lien Agents shall also be granted a senior Lien on such additional collateral as security for the applicable Senior Lender Claims and any such DIP Financing and that any Lien on such additional collateral securing the Second Priority Claims shall be subordinated to the Liens on such collateral securing the Senior Lender Claims and any such DIP Financing (and all Obligations relating thereto) and any other Liens granted to the Senior Lenders as adequate protection on the same basis as the other Liens securing the Second Priority Claims are so subordinated to such Liens securing Senior Lender Claims under this Agreement.

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#### 6.4 Avoidance Issues

. If any Senior Lender is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of the Company or any other Grantor (or any trustee, receiver or similar person therefor), because the payment of such amount was declared to be fraudulent or preferential in any respect or for any other reason, any amount (a "Recovery"), whether received as proceeds of security, enforcement of any right of setoff or otherwise, then as among the parties hereto the Senior Lender Claims shall be deemed to be reinstated to the extent of such Recovery and to be outstanding as if such payment had not occurred and the Senior Lenders shall be entitled to a Discharge of Senior Lender Claims with respect to all such recovered amounts and shall have all rights hereunder until such time. If this Agreement shall have been terminated prior to such Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto.

#### 6.5 Application

. This Agreement shall be applicable prior to and after the commencement of any Insolvency or Liquidation Proceeding. All references herein to any Grantor shall apply to any trustee for such Person and such Person as debtor in possession. The relative rights as to the Common Collateral and other collateral and proceeds thereof shall continue after the filing thereof on the same basis as prior to the date of the petition, subject to any court order approving the financing of, or use of cash collateral by, any Grantor.

#### 6.6 Waivers

. Until the Discharge of Senior Lender Claims has occurred, each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, (a) will not assert or enforce any claim under Section 506(c) of the United States Bankruptcy Code senior to or on a parity with the Liens securing the Senior Lender Claims for costs or expenses of preserving or disposing of any Common Collateral or other collateral, and (b) waives any claim it may now or hereafter have arising out of the election by any Senior Lender of the application of Section 1111(b) (2) of the Bankruptcy Code.

### **SECTION 7. Reliance; Waivers; etc.**

#### 7.1 Reliance

. The consent by the Senior Lenders to the execution and delivery of the Second Priority Documents to which the Senior Lenders have consented and all loans and other extensions of credit made or deemed made on and after September 20, 2006 by the Senior Lenders to the Company or any Subsidiary shall be deemed to have been given and made in reliance upon this Agreement. Each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, acknowledges that it and the applicable Second Priority Secured Parties is not entitled to rely on any credit decision or other decisions made by any First Lien Agent or any Senior Lender in taking or not taking any action under the applicable Second Priority Document or this Agreement.

#### 7.2 No Warranties or Liability

. Neither any First Lien Agent nor any Senior Lender shall have been deemed to have made any express or implied representation or warranty upon which the Second Priority Agent or the Second Priority Secured Parties may rely, including with respect to the execution, validity, legality, completeness, collectability or enforceability of any of the Senior Lender Documents, the ownership of any Common Collateral or the perfection or priority of any Liens thereon. The Senior Lenders will be entitled to manage and supervise their respective loans and extensions of credit under the Senior Lender Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate, and the Senior Lenders may manage their loans and extensions of credit without regard to any rights or interests that any Second Priority Agent or any of the Second Priority Secured Parties have in the Common Collateral or otherwise, except as otherwise provided in this Agreement. Neither any First Lien Agent nor any Senior Lender shall have any duty to any Second Priority Agent or any Second Priority Secured Party to act or refrain from acting in a manner that allows, or results in, the occurrence or continuance of an event of default or default under any agreements with the Company or any Subsidiary thereof (including the Second Priority Documents), regardless of any knowledge thereof that they may have or be charged with. Except as expressly set forth in this Agreement, the First Lien Agents, the Senior Lenders, the Second Priority Agents and the Second Priority Secured Parties have not otherwise made to each other, nor do they hereby make to each other, any warranties, express or implied, nor do they assume any liability to each other with respect to (a) the enforceability, validity, value or collectability of any of the Second Priority Claims, the Senior Lender Claims or any guarantee or security which may have been granted to any of them in connection therewith, (b) the Company's title to or right to transfer any of the Common Collateral or (c) any other matter except as expressly set forth in this Agreement.

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7.3 Obligations Unconditional

. All rights, interests, agreements and obligations of the First Lien Agents and the Senior Lenders, and the Second Priority Agents and the Second Priority Secured Parties, respectively, hereunder shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any Senior Lender Documents or any Second Priority Documents;

(b) any change in the time, manner or place of payment of, or in any other terms of, all or any of the Senior Lender Claims or Second Priority Claims, or any amendment or waiver or other modification, including any increase in the amount thereof, whether by course of conduct or otherwise, of the terms of the Credit Agreement or any other Senior Lender Document or of the terms of the Second Priority Senior Secured Notes Indenture or any other Second Priority Document;

(c) any exchange of any security interest in any Common Collateral or any other collateral, or any amendment, waiver or other modification, whether in writing or by course of conduct or otherwise, of all or any of the Senior Lender Claims or Second Priority Claims or any guarantee thereof;

(d) the commencement of any Insolvency or Liquidation Proceeding in respect of the Company or any other Grantor; or

(e) any other circumstances that otherwise might constitute a defense available to, or a discharge of, the Company or any other Grantor in respect of the Senior Lender Claims, or of any Second Priority Agent or any Second Priority Secured Party in respect of this Agreement.

**SECTION 8. Miscellaneous.**

8.1 Conflicts

. Subject to Section 8.19, in the event of any conflict between the provisions of this Agreement and the provisions of any Senior Lender Document or any Second Priority Document, the provisions of this Agreement shall govern.

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8.2 Continuing Nature of this Agreement; Severability

. Subject to Section 6.4, this Agreement shall continue to be effective until the Discharge of Senior Lender Claims shall have occurred or such later time as all the Obligations in respect of the Second Priority Claims shall have been paid in full. This is a continuing agreement of lien subordination and the Senior Lenders may continue, at any time and without notice to each Second Priority Agent or any Second Priority Secured Party, to extend credit and other financial accommodations and lend monies to or for the benefit of the Company or any other Grantor constituting Senior Lender Claims in reliance hereon. The terms of this Agreement shall survive, and shall continue in full force and effect, in any Insolvency or Liquidation Proceeding. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

8.3 Amendments; Waivers

. No amendment, modification or waiver of any of the provisions of this Agreement by any Second Priority Agent or any First Lien Agent shall be deemed to be made unless the same shall be in writing signed on behalf of the party making the same or its authorized agent and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the parties making such waiver or the obligations of the other parties to such party in any other respect or at any other time. The Company and the other Grantors shall not have any right to consent to or approve any amendment, modification or waiver of any provision of this Agreement except to the extent their rights are affected. Notwithstanding anything in this Section 8.3 to the contrary, this Agreement may be amended from time to time at the request of the Company, at the Company's expense, and without the consent of any Second Priority Agent, any First Lien Agent, any Senior Lender or any Second Priority Secured Party to (i) add other parties holding Future Second Lien Indebtedness (or any agent or trustee therefor) to the extent such Indebtedness is not prohibited by the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture or any other Second Priority Document governing Future Second Lien Indebtedness, (ii) add other parties holding Obligations arising under the Other First Priority Lien Obligations Credit Documents (or any agent or trustee thereof) to the extent such Obligations are not prohibited by the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture or any other Second Priority Document governing Future Second Lien Indebtedness and (iii) in the case of Future Second Lien Indebtedness, (a) establish that the Lien on the Common Collateral securing such Future Second Lien Indebtedness shall be junior and subordinate in all respects to all Liens on the Common Collateral securing any Senior Lender Claims and shall share in the benefits of the Common Collateral equally and ratably with all Liens on the Common Collateral securing any Second Priority Claims, and (b) provide to the holders of such Future Second Lien Indebtedness (or any agent or trustee thereof) the comparable rights and benefits (including any improved rights and benefits that have been consented to by the First Lien Agents) as are provided to the holders of Second Priority Claims under this Agreement. Any such additional party, each First Lien Agent and each Second Priority Agent shall be entitled to rely on the determination of officers of the Company that such modifications do not violate the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture or any other Second Priority Document governing Future Second Lien Indebtedness if such determination is set forth in an Officers' Certificate delivered to such party, the First Lien Agents and each Second Priority Agent; provided, however, that such determination will not affect whether or not the Company has complied with its undertakings in the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Senior Collateral Documents, the Second Priority Senior Secured Notes Indenture, any other Second Priority Document governing Future Second Lien Indebtedness, the Second Priority Collateral Documents or this Agreement.

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8.4 Information Concerning Financial Condition of the Company and the Subsidiaries

. Neither any First Lien Agent nor any Senior Lender shall have any obligation to the Second Priority Agent or any Second Priority Secured Party to keep the Second Priority Agent or any Second Priority Secured Party informed of, and the Second Priority Agent and the Second Priority Secured Parties shall not be entitled to rely on the First Lien Agents or the Senior Lenders with respect to, (a) the financial condition of the Company and the Subsidiaries and all endorers and/or guarantors of the Second Priority Claims or the Senior Lender Claims and (b) all other circumstances bearing upon the risk of nonpayment of the Second Priority Claims or the Senior Lender Claims. The First Lien Agents, the Senior Lenders, each Second Priority Agent and the Second Priority Secured Parties shall have no duty to advise any other party hereunder of information known to it or them regarding such condition or any such circumstances or otherwise. In the event that any First Lien Agent, any Senior Lender, any Second Priority Agent or any Second Priority Secured Party, in its or their sole discretion, undertakes at any time or from time to time to provide any such information to any other party, it or they shall be under no obligation (w) to make, and the First Lien Agents, the Senior Lenders, the Second Priority Agents and the Second Priority Secured Parties shall not make, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (x) to provide any additional information or to provide any such information on any subsequent occasion, (y) to undertake any investigation or (z) to disclose any information that, pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential.

8.5 Subrogation

. Each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, hereby waives any rights of subrogation it may acquire as a result of any payment hereunder until the Discharge of Senior Lender Claims has occurred.

8.6 Application of Payments

. Except as otherwise provided herein, all payments received by the Senior Lenders may be applied, reversed and reapplied, in whole or in part, to such part of the Senior Lender Claims as the Senior Lenders, in their sole discretion, deem appropriate, consistent with the terms of the Senior Lender Documents. Except as otherwise provided herein, each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, assents to any such extension or postponement of the time of payment of the Senior Lender Claims or any part thereof and to any other indulgence with respect thereto, to any substitution, exchange or release of any security that may at any time secure any part of the Senior Lender Claims and to the addition or release of any other Person primarily or secondarily liable therefor.

8.7 Consent to Jurisdiction: Waivers

. The parties hereto consent to the nonexclusive jurisdiction of any state or federal court located in New York, New York (the "**New York Courts**"), and consent that all service of process may be made by registered mail directed to such party as provided in Section 8.8 for such party. Service so made shall be deemed to be completed three days after the same shall be posted as aforesaid. The parties hereto waive any objection to any action instituted hereunder in any such court based on forum non conveniens, and any objection to the venue of any action instituted hereunder in any such court. Each of the parties hereto waives any right it may have to trial by jury in respect of any litigation based on, or arising out of, under or in connection with this Agreement, or any course of conduct, course of dealing, verbal or written statement or action of any party hereto in connection with the subject matter hereof. Nothing in this Agreement shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Agreement in the courts of any jurisdiction, except that each Loan Party, each Second Priority Secured Party and each Second Priority Agent agrees that (a) it will not bring any such action or proceeding in any court other than New York Courts (it being acknowledged and agreed by the parties hereto that any other forum would be inconvenient and inappropriate in view of the fact that more of the holders of Senior Lender Claims and Second Priority Claims who would be affected by any such action or proceeding have contacts with the State of New York than any other jurisdiction), and (b) in any such action or proceeding brought against any Second Priority Agent or any Loan Party or any Second Priority Secured Party in any other court, it will not assert any cross-claim, counterclaim or setoff, or seek any other affirmative relief, except to the extent that the failure to assert the same will preclude such Loan Party or such Second Priority Secured Party from asserting or seeking the same in the New York Courts.

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8.8 Notices

. All notices to the Second Priority Secured Parties and the Senior Lenders permitted or required under this Agreement may be sent to the Trustee, the First Lien Agents or any Second Priority Agent as provided in the Second Priority Senior Secured Notes Indenture, the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the other relevant Senior Lender Documents or the other relevant Second Priority Documents, as applicable. Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, telecopied, electronically mailed or sent by courier service or U.S. mail and shall be deemed to have been given when delivered in person or by courier service, upon receipt of a telecopy or electronic mail or upon receipt via U.S. mail (registered or certified, with postage prepaid and properly addressed). For the purposes hereof, the addresses of the parties hereto shall be as set forth below each party's name on the signature pages hereto, or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties. The First Lien Agents hereby agree to promptly notify each Second Priority Agent upon payment in full in cash of all Indebtedness under the applicable Senior Lender Documents (except for contingent indemnities and cost and reimbursement obligations to the extent no claim therefor has been made).

8.9 Further Assurances

. Each of the Second Priority Agents, on behalf of itself and each applicable Second Priority Secured Party, and each applicable First Lien Agent, on behalf of itself and each Senior Lender, agrees that each of them shall take such further action and shall execute and deliver to each other First Lien Agent and the Senior Lenders such additional documents and instruments (in recordable form, if requested) as each other First Lien Agent or the Senior Lenders may reasonably request, at the expense of the Company, to effectuate the terms of and the lien priorities contemplated by this Agreement.

8.10 Governing Law

. This Agreement has been delivered and accepted in and shall be deemed to have been made in New York, New York and shall be interpreted, and the rights and liabilities of the parties bound hereby determined, in accordance with the laws of the State of New York.

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8.11 Binding on Successors and Assigns

. This Agreement shall be binding upon the First Lien Agents, the Senior Lenders, the Second Priority Agents, the Second Priority Secured Parties, Holdings, the Company, the Company's Subsidiaries party hereto and their respective permitted successors and assigns.

8.12 Specific Performance

. Each First Lien Agent may demand specific performance of this Agreement. Each Second Priority Agent, on behalf of itself and each applicable Second Priority Secured Party, hereby irrevocably waives any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action that may be brought by either First Lien Agent.

8.13 Section Titles

. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of this Agreement.

8.14 Counterparts

. This Agreement may be executed in one or more counterparts, including by means of facsimile, each of which shall be an original and all of which shall together constitute one and the same document.

8.15 Authorization

. By its signature, each Person executing this Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Agreement. The First Lien Agents represent and warrant that this Agreement is binding upon the Senior Lenders. The Trustee represents and warrants that this Agreement is binding upon the Indenture Secured Parties.

8.16 No Third Party Beneficiaries; Successors and Assigns

. This Agreement and the rights and benefits hereof shall inure to the benefit of, and be binding upon, each of the parties hereto and their respective successors and assigns and shall inure to the benefit of each of, and be binding upon, the holders of Senior Lender Claims and Second Priority Claims. No other Person shall have or be entitled to assert rights or benefits hereunder.

8.17 Effectiveness

. This Agreement shall become effective when executed and delivered by the parties hereto. This Agreement shall be effective both before and after the commencement of any Insolvency or Liquidation Proceeding. All references to the Company or any other Grantor shall include the Company or any other Grantor as debtor and debtor-in-possession and any receiver or trustee for the Company or any other Grantor (as the case may be) in any Insolvency or Liquidation Proceeding.

8.18 First Lien Agents and Second Priority Agents

. It is understood and agreed that (a) Credit Suisse, Cayman Islands Branch, is entering into this Agreement in its capacity as administrative agent under the Term Credit Agreement and the provisions of Article VIII of the Term Credit Agreement applicable to Credit Suisse, Cayman Islands Branch, as administrative agent thereunder shall also apply to Credit Suisse, Cayman Islands Branch, as First Lien Agent hereunder, (b) Bank of America, N.A. is entering into this Agreement in its capacity as administrative agent under the Revolving Credit Agreement and the provisions of Article VIII of the Revolving Credit Agreement applicable to Bank of America, N.A. as administrative agent thereunder shall also apply to Bank of America, N.A. as First Lien Agent hereunder, (c) Bank of America, N.A. is entering into this Agreement in its capacity as Bridge Loan Administrative Agent and Bridge Loan Collateral Agent and the provisions of Article VIII of the Bridge Loan Credit Agreement applicable to Bank of America, N.A., as administrative agent and collateral agent thereunder shall also apply to Bank of America, N.A., as Bridge Loan Administrative Agent and Bridge Loan Collateral Agent hereunder and (d) Wells Fargo Bank, N.A. is entering into this Agreement in its capacity as Trustee, and the provisions of Article 7 of the Second Priority Senior Secured Notes Indenture applicable to the trustee thereunder shall also apply to the Trustee hereunder.

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8.19 Relative Rights

. Notwithstanding anything in this Agreement to the contrary (except to the extent contemplated by Section 5.3(b)), nothing in this Agreement is intended to or will (a) amend, waive or otherwise modify the provisions of the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture or any other Senior Lender Documents or Second Priority Documents entered into in connection with the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture or any other Senior Lender Document or Second Priority Document or permit Holdings, the Company or any Subsidiary to take any action, or fail to take any action, to the extent such action or failure would otherwise constitute a breach of, or default under, the Credit Agreement or any other Senior Lender Documents entered into in connection with the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture or any other Second Priority Documents, (b) change the relative priorities of the Senior Lender Claims or the Liens granted under the Senior Lender Documents on the Common Collateral (or any other assets) as among the Senior Lenders, (c) otherwise change the relative rights of the Senior Lenders in respect of the Common Collateral as among such Senior Lenders or (d) obligate Holdings, the Company or any Subsidiary to take any action, or fail to take any action, that would otherwise constitute a breach of, or default under, the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents or any other Senior Lender Document entered into in connection with the Credit Agreement, the Bridge Loan Credit Agreement, the Other First Priority Lien Obligations Credit Documents, the Second Priority Senior Secured Notes Indenture or any other Second Priority Documents. As among the respective First Lien Agents, nothing in this Agreement shall alter the respective rights, priorities and obligations of the First Lien Agents under the Senior Lender Intercreditor Agreement or the Senior Fixed Collateral Intercreditor Agreement.

8.20 References

. Notwithstanding anything to the contrary in this Agreement, any references contained herein to any Section, clause, paragraph, definition or other provision of the Second Priority Senior Secured Notes Indenture (including any definition contained therein) shall be deemed to be a reference to such Section, clause, paragraph, definition or other provision as in effect on the date of this Agreement; provided that any reference to any such Section, clause, paragraph or other provision shall refer to such Section, clause, paragraph or other provision of the Second Priority Senior Secured Notes Indenture, as applicable (including any definition contained therein), as amended or modified from time to time if such amendment or modification has been (1) made in accordance with the Second Priority Senior Secured Notes Indenture, and (2) approved in writing by, or on behalf of, the requisite Senior Lenders as are needed under the terms of the Credit Agreement and the Bridge Loan Credit Agreement and the Other First Priority Lien Obligations Credit Documents, to approve such amendment or modification.

8.21 Supplements

. Upon the execution by any Subsidiary of the Company of a supplement hereto in form and substance satisfactory to the First Lien Agent, such Subsidiary shall be a party to this Agreement and shall be bound by the provisions hereof to the same extent as the Company and each other Grantor are so bound.

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. The Company may designate additional obligations as Other First Priority Lien Obligations or Future Second Lien Indebtedness only if the incurrence of such obligations is permitted under each of the Revolving Credit Agreement, Term Loan Credit Agreement, the Bridge Loan Credit Agreement, the Second Priority Senior Secured Notes Indenture, the Senior Lender Intercreeitor Agreement, the Senior Fixed Collateral Intercreeitor Agreement and this Agreement. If so permitted, the Company shall (i) notify each First Lien Agent and Second Priority Agent in writing of such designation and (ii) cause the applicable Other First Priority Lien Obligations Administrative Agent and the applicable Other First Priority Lien Obligations Collateral Agent or the administrative agent or trustee and collateral agent for such Future Second Lien Indebtedness to execute and deliver to each First Lien Agent and Second Priority Agent, a Joinder Agreement substantially in the form of Exhibit A hereto (with appropriate adjustments in the case of Future Second Lien Indebtedness).

*[Remainder of page intentionally left blank]*

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**CREDIT SUISSE, CAYMAN ISLANDS BRANCH,**  
as Term Facility Administrative Agent, Term Facility  
Collateral Agent and as First Lien Agent

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

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

Address: Eleven Madison Avenue, New York, NY  
10010, Attention: Agency Group  
Telecopier: (212) 325-8304

Intercreditor Agreement Signature Page

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**BANK OF AMERICA, N.A.**  
as Revolving Facility Administrative Agent, Revolving  
Facility Collateral Agent and as First Lien Agent

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

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

Address:  
Attention:  
Telecopier:

Intercreditor Agreement Signature Page

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**BANK OF AMERICA, N.A.**  
as Bridge Loan Administrative Agent,  
Bridge Loan Collateral Agent and as First Lien Agent

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

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

Address:  
Attention:  
Telecopier:

Intercreditor Agreement Signature Page

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**WELLS FARGO BANK, N.A.**  
as Trustee

By:

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

Address:  
Attention:  
Telecopier:

Intercreditor Agreement Signature Page

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**BERRY PLASTICS GROUP, INC.**

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

Intercreditor Agreement Signature Page

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**BERRY PLASTICS CORPORATION**

By:

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

BERRY PLASTICS TECHNICAL SERVICES, INC.  
BERRY S STERLING CORPORATION  
CARDINAL PACKAGING, INC.  
CPI HOLDING CORPORATION  
KNIGHT PLASTICS, INC.  
PACKERWARE CORPORATION  
PESCOR, INC.  
VENTURE PACKAGING, INC.  
VENTURE PACKAGING MIDWEST, INC.  
BERRY PLASTICS ACQUISITION CORPORATION  
III  
BERRY PLASTICS ACQUISITION CORPORATION  
V  
BERRY PLASTICS OPCO, INC.  
BERRY PLASTICS ACQUISITION CORPORATION VIII  
BERRY PLASTICS ACQUISITION CORPORATION  
IX  
BERRY PLASTICS ACQUISITION CORPORATION  
X  
BERRY PLASTICS ACQUISITION CORPORATION  
XI  
BERRY PLASTICS ACQUISITION CORPORATION  
XII  
BERRY PLASTICS ACQUISITION CORPORATION  
XIII  
ROLLPAK ACQUISITION CORPORATION  
ROLLPAK CORPORATION  
CAPTIVE HOLDINGS, INC.  
CAPTIVE PLASTICS, INC.  
CAPLAS NEPTUNE, LLC  
CAPLAS LLC

By:

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

COVALENCE SPECIALTY ADHESIVES LLC  
By: BERRY PLASTICS CORPORATION,  
its sole member

By:

Name:  
Title:

COVALENCE SPECIALTY ADHESIVES LLC  
By: BERRY PLASTICS CORPORATION,  
its sole member

By:

Name:  
Title:

AEROCON, LLC  
By: BERRY PLASTICS CORPORATION,  
its sole member and manager

By:

Name:  
Title:

BERRY IOWA, LLC  
By: BERRY PLASTICS CORPORATION,  
its sole member and manager

By:

Name:  
Title:

BERRY PLASTICS DESIGN, LLC  
By: BERRY PLASTICS CORPORATION,  
its sole member and manager

By:

Name:  
Title:

POLY-SEAL, LLC  
By: BERRY PLASTICS CORPORATION,  
its sole member and manager

By:

Name:  
Title:

KERR GROUP, LLC  
By: BERRY PLASTICS CORPORATION,  
its sole member and manager

By:

Name:  
Title:

SAFFRON ACQUISITION, LLC.  
By: KERR GROUP, LLC,  
its sole member and manager  
By: BERRY PLASTICS CORPORATION  
its sole member and manager

By:

Name:  
Title:

SUN COAST INDUSTRIES, LLC  
By: SAFFRON ACQUISITION, LLC,  
its sole member and manager  
By: KERR GROUP, LLC,  
its sole member and manager  
By: BERRY PLASTICS CORPORATION,  
its sole member and manager

By:

Name:  
Title:

LANDIS PLASTICS, LLC  
By: BERRY PLASTICS CORPORATION,  
its sole member and manager  
By: \_\_\_\_\_

Name:  
Title:

SETCO, LLC  
By: KERR GROUP, LLC,,  
its sole member  
By: BERRY PLASTICS CORPORATION,  
its sole member and manager  
By: \_\_\_\_\_

Name:  
Title:

TUBED PRODUCTS, LLC  
By: KERR GROUP, LLC,  
its sole member  
By: BERRY PLASTICS CORPORATION,  
its sole member and manager  
By: \_\_\_\_\_

Name:  
Title:

GRAFCO INDUSTRIES LIMITED PARTNERSHIP  
By: Caplas Neptune, LLC  
its General Partner  
By: \_\_\_\_\_

Name:  
Title:

BERRY PLASTICS ACQUISITION CORPORATION XV, LLC  
By: BERRY PLASTICS CORPORATION,  
Its sole member  
By: \_\_\_\_\_

Name:  
Title:

SCHEDULE I

AeroCon, Inc.  
Berry Iowa, LLC  
Berry Plastics Design, LLC  
Berry Sterling Corporation  
Berry Plastics Technical Services, Inc.  
Cardinal Packaging, Inc.  
CPI Holding Corporation  
Knight Plastics, Inc.  
Landis Plastics, LLC  
Packerware Corporation  
Pescor, Inc.  
Poly-Seal, LLC  
Venture Packaging, Inc.  
Venture Packaging Midwest, Inc.  
Berry Plastics Acquisition Corporation III  
Berry Plastics Acquisition Corporation V  
Berry Plastics Acquisition Corporation VIII  
Berry Plastics Acquisition Corporation IX  
Berry Plastics Acquisition Corporation X  
Berry Plastics Acquisition Corporation XI  
Berry Plastics Acquisition Corporation XII  
Berry Plastics Acquisition Corporation XIII  
Berry Plastics Acquisition Corporation XV, LLC  
Kerr Group, LLC  
Saffron Acquisition, LLC  
Sun Coast Industries, LLC  
Berry Plastics Opco, Inc.  
Setco, LLC  
Tubed Products, LLC  
Covalence Specialty Coatings LLC  
Covalence Specialty Adhesives LLC  
Rollpak Acquisition Corporation  
Rollpak Corporation  
Captive Holdings, Inc.  
Captive Plastics, Inc.  
Caplas Neptune, LLC  
Caplas LLC  
GrafcO Industries Limited Partnership

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## JOINDER AGREEMENT

JOINDER AGREEMENT (this "**Agreement**") dated as of [ ] [ ], [ ], among [ ] (the "**New Administrative Agent**"), as an Other First Priority Lien Obligations Administrative Agent, [ ] (the "**New Collateral Agent**"), as an Other First Priority Lien Obligations Collateral Agent, BANK OF AMERICA, N.A., as administrative agent for the Revolving Facility Secured Parties, CREDIT SUISSE, CAYMAN ISLANDS BRANCH as administrative agent for the Term Loan Secured Parties referred to herein, BANK OF AMERICA, N.A., as Bridge Loan Administrative Agent for the Bridge Loan Secured Parties referred to herein, BANK OF AMERICA, N.A., as collateral agent for the Revolving Facility Secured Parties, CREDIT SUISSE, CAYMAN ISLANDS BRANCH as collateral agent for the Term Loan Secured Parties, BANK OF AMERICA, N.A., as collateral agent for the Bridge Loan Secured Parties, WELLS FARGO BANK, N.A., as Second Priority Notes Trustee, BERRY PLASTICS GROUP, INC. and BERRY PLASTICS CORPORATION (on behalf of itself and its subsidiaries), and any other First Lien Agent and other Second Priority Agent from time to time a party hereto.

This Agreement is supplemental to that certain Second Amended and Restated Intercreditor Agreement, dated as of February 5, 2008 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "**Intercreditor Agreement**"), between [ ]. This Agreement has been entered into to record the accession of the New Administrative Agent[s] as Other First Priority Lien Obligations Administrative Agent[s] under the Intercreditor Agreement and to record the accession of the New Collateral Agent as an Other First Priority Lien Obligations Collateral Agent under the Intercreditor Agreement.

**Definitions**

Capitalized terms used but not defined herein shall have the meanings assigned thereto in the Intercreditor Agreement.

**SECTION 1.****Accession**

8.23 [The]/[Each] New Administrative Agent agrees to become, with immediate effect, a party to and agrees to be bound by the terms of, the Intercreditor Agreement as an Other First Priority Lien Obligations Administrative Agent as if it had originally been party to the Intercreditor Agreement as an Other First Priority Lien Obligations Administrative Agent.

8.24 The New Collateral Agent agrees to become, with immediate effect, a party to and agrees to be bound by the terms of, the Intercreditor Agreement as an Other First Priority Lien Obligations Collateral Agent as if it had originally been party to the Intercreditor Agreement as an Other First Priority Lien Obligations Collateral Agent.

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8.25 [ ] The New Administrative Agent[s] and the New Collateral Agent confirm that their address details for notices pursuant to the Intercreditor Agreement are as follows:

8.26 Each party to this Agreement (other than the New Administrative Agent[s] and New Collateral Agent) confirms the acceptance of the New Administrative Agent[s] and the New Collateral Agent as an Other First Priority Lien Obligations Administrative Agent and an Other First Priority Lien Obligations Collateral Agent, respectively, for purposes of the Intercreditor Agreement.

8.27 1.5. [ ] is[/are] acting in the capacities of Other First Priority Lien Obligations Administrative Agent[s] and [ ] is acting in its capacity as Other First Priority Lien Obligations Collateral Agent solely for the Secured Parties under [ ].

**SECTION 2.**

**Miscellaneous**

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

8.29 This Agreement may be executed in counterparts, each of which shall constitute an original but all of which when taken together shall constitute a single contract. Delivery of an executed signature page to this Agreement by facsimile transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

[INSERT SIGNATURE BLOCKS]

Intercreditor Agreement Signature Page







**\$2,100,000,000 INCREMENTAL TERM LOANS**

**INCREMENTAL ASSUMPTION AGREEMENT AND AMENDMENT**

**Dated as of October 1, 2015**

**among**

**BERRY PLASTICS GROUP, INC.,**

**BERRY PLASTICS CORPORATION**

**and**

**CERTAIN SUBSIDIARIES OF BERRY PLASTICS CORPORATION**

**as Loan Parties,**

**CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH**

**as Administrative Agent**

**and**

**CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH**

**as Incremental Term Lender**

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## INCREMENTAL ASSUMPTION AGREEMENT AND AMENDMENT

**THIS INCREMENTAL ASSUMPTION AGREEMENT AND AMENDMENT TO THE CREDIT AGREEMENT** (as defined below) (this "Agreement"), dated as of October 1, 2015, is among **BERRY PLASTICS CORPORATION**, a Delaware corporation (the "Borrower"), **BERRY PLASTICS GROUP, INC.**, a Delaware corporation ("Holdings"), each Subsidiary of the Borrower listed on the signature pages hereto (together with Holdings and Borrower, the "Loan Parties"), Credit Suisse AG, Cayman Islands Branch, as an Incremental Term Lender (as defined in the Credit Agreement referred to below) (in such capacity, the "Incremental Term Lender"), and Credit Suisse AG, Cayman Islands Branch (formerly known as Credit Suisse, Cayman Islands Branch), as administrative agent (in such capacity, the "Administrative Agent") for the Lenders under the Credit Agreement.

**PRELIMINARY STATEMENTS:**

(1) The Loan Parties, the Administrative Agent and the other agents and lenders party thereto are parties to the Second Amended and Restated Term Loan Credit Agreement dated as of April 3, 2007 (as modified by that certain Incremental Assumption Agreement, dated as of February 8, 2013 (the "Initial Incremental Assumption Agreement"), and that certain Incremental Assumption Agreement, dated as of January 6, 2014 (together with the Initial Incremental Assumption Agreement, the "Prior Incremental Assumption Agreements"), the "Credit Agreement"), Capitalized terms not otherwise defined in this Agreement have the same meanings as specified in the Credit Agreement.

(2) The Borrower has requested that the Incremental Term Lender provide an Incremental Term Loan Commitment (and Incremental Term Loans consisting of Other Term Loans) in the amount of \$2,100,000,000.00 (such commitments, together, the "Term F Loan Commitments" and such Incremental Term Loans, the "Term F Loans"), and the Incremental Term Lender is willing to provide such Incremental Term Loan Commitment and Incremental Term Loans, subject in each case to the terms and conditions set forth herein.

(3) The Loan Parties, the Incremental Term Lender and the Administrative Agent are entering into this Agreement in order to evidence the Term F Loan Commitments and Term F Loans in accordance with Section 2.21 of the Credit Agreement.

(4) Pursuant to Section 9.08 of the Credit Agreement, Holdings, the Borrower and the Required Lenders may, and hereby express their desire to, amend the Credit Agreement for certain purposes as set forth below.

**SECTION 1. New Commitments and New Loans**

(a) Pursuant to Section 2.21 of the Credit Agreement, and subject to the satisfaction of the conditions set forth in Section 4 hereof:

(b) The Incremental Term Lender agrees to make a single loan to the Borrower on the Effective Date in a principal amount not to exceed the amount set forth with respect to the Incremental Term Lender on Schedule 1 hereto (with respect to the Incremental Term Lender, its "Term F Loan Commitment").

(c) The Administrative Agent hereby approves of the Incremental Term Lender as an Incremental Term Lender under the Credit Agreement and approves of the terms of the Term F Loans as set forth in Section 2 hereof

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**SECTION 2. Terms of the Term F Loans**

Pursuant to Section 2.21 of the Credit Agreement (as amended by this Agreement), the Term F Loans shall be Other Term Loans, the terms of which shall be as follows:

- (a) The aggregate amount of the Term F Loans and Term F Loan Commitments shall be \$2,100,000,000.00.
  - (b) The Incremental Term Facility Maturity Date with respect to the Term F Loans shall be the date that is seven years following the Effective Date.
  - (c) The amortization schedule relating to the Term F Loans shall be as set forth on Annex A attached hereto.
  - (d) The Applicable Margin with respect to the Term F Loans shall be 3.00% per annum in the case of any Eurocurrency Loan that is a Term F Loan and shall be 2.00% for any ABR Loan that is a Term F Loan.
  - (e) Solely for the purposes of calculation of interest payable in respect of Term F Loans, the term "ABR" shall mean, for any day, a fluctuating rate per annum equal to the highest of (a) the Federal Funds Effective Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as announced from time to time by Credit Suisse as its "prime rate" at its principal office in New York, New York and notified to the Borrower and (c) the daily ICE LIBOR (provided that, for the avoidance of doubt, the ICE LIBOR for any day shall be based on the rate determined on such day at approximately 11:00 a.m., London time) for a one month interest period plus 1%. Any change in the ABR due to a change in the Credit Suisse "prime rate", the Federal Funds Effective Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, respectively.
  - (f) Solely for the purposes of calculation of interest payable in respect of Term F Loans, the term "LIBO Rate" shall mean, with respect to any Eurocurrency Borrowing for any Interest Period, the greater of (a) 1.00% per annum and (b) the rate per annum equal to the ICE Benchmark Administration ("**ICE LIBOR**"), as published by Bloomberg (or other commercially available source providing quotations of ICE LIBOR as designated by the Administrative Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; provided, that if such rate is not available at such time for any reason, then the "LIBO Rate" for such Interest Period shall be the Interpolated Rate.
  - (g) Solely for the purposes of calculation of interest payable in respect of Term F Loans, the term "Interpolated Rate" shall mean, in relation to the Eurocurrency Loan for any Loan, the rate which results from interpolating on a linear basis between: (a) the ICE Benchmark Administration's Interest Settlement Rates for deposits in Dollars for the longest period (for which that rate is available) which is less than the Interest Period and (b) the ICE Benchmark Administration's Interest Settlement Rates for deposits in Dollars for the shortest period (for which that rate is available) which exceeds the Interest Period, each as of approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period.
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(h) Notwithstanding anything herein or in the Credit Agreement to the contrary, in the event that, on or prior to the six-month anniversary of the Effective Date, there occurs any Repricing Event or in connection with a Repricing Event constituting an amendment or conversion of Term F Loans, any Incremental Term Lender (as defined in the Credit Agreement) is required to assign its Term F Loans pursuant to Section 2.19(c) of the Credit Agreement, the Borrower shall on the date of such Repricing Event pay to the Administrative Agent, for the account of each Incremental Term Lender (as defined in the Credit Agreement) with such Term F Loans that are subject to such Repricing Event or are required to be so assigned, a fee equal to 1.00% of the principal amount of the Term F Loans subject to such Repricing Event or required to be so assigned; provided that any prepayment of any Term F Loans made in connection with a Change in Control shall not require the payment of the 1.00% premium otherwise provided for in this paragraph.

For purposes of this Section 2(g), "Repricing Event" shall mean any prepayment or repayment of Term F Loans with the proceeds of, or any conversion or amendment of Term F Loans into, any new or replacement tranche of term loans bearing interest with an "effective yield" (taking into account, for example, upfront fees, interest rate spreads, interest rate benchmarks floors and original interest discount, but excluding the effect of any arrangement, structuring, syndication or other fees payable in connection therewith that are not shared with all lenders or holders of such new or replacement loans and without taking into account any fluctuations in the Adjusted LIBO Rate or comparable rate) less than the "effective yield" applicable to the Term F Loans (as such comparative yields are determined consistent with generally accepted financial practices) (it being understood that (x) in each case, the yield shall exclude any structuring, commitment and arranger fees or other fees unless such similar fees are paid to all lenders generally in the primary syndication of such new or replacement tranche of term loans and shall include any rate floors and any upfront or similar fees paid to all lenders generally in the primary syndication of such new or replacement tranche of term loans or original issue discount payable with respect to such new or replacement tranche of term loans and (y) any such repayment, prepayment or conversion shall only constitute a Repricing Event to the extent the primary purpose of such repayment, prepayment, conversion or amendment, as reasonably determined by the Borrower in good faith, is to reduce the "effective yield" on the Term F Loans).

(i) The provisions set forth in Section 2(h) of the Initial Incremental Assumption Agreement shall also apply to the Term F Loans with the same effect as such terms apply to the Term D and E Loans, it being understood and agreed that, on and after the Effective Date, such provisions shall apply to, and be effective as to, all Term Loans under the Credit Agreement, as modified by this Agreement.

(j) All other terms not described herein and relating to the Term F Loans shall be the same as the terms of the Term E Loans.

(k) For purposes of this Agreement, the following terms have the meanings ascribed here:

(i) "Avintiv Material Adverse Effect" means any change, event or occurrence that has had, or is reasonably likely to have, individually or in the aggregate, a material adverse effect on the assets, liabilities, results of operations or financial condition of Avintiv and its Subsidiaries, taken as a whole; provided, however, that in no event shall any of the following, alone or in combination, be deemed to constitute an Avintiv Material Adverse Effect, nor shall any change, event or occurrence relating to any of the following be taken into account in determining whether an Avintiv Material Adverse Effect has occurred or would result: (i) general economic or financial market conditions in any of

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the geographical areas in which any of Avintiv and its Subsidiaries operate; (ii) conditions generally affecting the industry in which Avintiv and its Subsidiaries operate; (iii) changes in the capital markets, including changes in interest rates, (iv) changes in Law or in GAAP; (v) the commencement or material worsening of a war or armed hostilities or other national or international calamity involving the United States whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the United States, or any of its territories, possessions, or diplomatic or consular offices or upon any military installation, equipment or personnel of the United States; (vi) any earthquake, hurricane, tsunami, tornado, flood, mudslide or other natural disaster, pandemic, weather condition, explosion or fire or other force majeure event or act of God; (vii) any actions taken, or failures to take action, or such other changes, events or occurrences, in each case, to which the Borrower has consented; (viii) any failure, in and of itself, by Avintiv to meet projections, forecasts or revenue or earnings predictions for any period ending on or after the date of the Avintiv Merger Agreement (it being understood that the facts or occurrences giving rise to or contributing to such failure may be deemed to constitute, or be taken into account in determining whether there has been or will be, an Avintiv Material Adverse Effect); and (ix) the negotiation, execution, delivery, announcement, pendency or performance of the Avintiv Merger Agreement or the transactions contemplated thereby, or any public disclosure relating to any of the foregoing, or the impact of any of the foregoing on relationships, contractual or otherwise, with customers, lenders, employees, unions or other Persons with business relationships with Avintiv or its Subsidiaries, or any action or inaction by a Governmental Entity or any Action or dispute brought or threatened arising out of or relating to the matters in this clause (ix); provided, however, that this clause (ix) shall not diminish the effect of, and shall be disregarded for purposes of, any representations and warranties made in Section 4.4 of the Avintiv Merger Agreement; except, in the case of the foregoing clauses (i)-(vi), to the extent such change or event has a materially disproportionate impact on Avintiv and its Subsidiaries, taken as a whole, compared to other Persons in the industries in which Avintiv and its Subsidiaries conduct their business. Capitalized terms used in this definition, but not defined in this paragraph or elsewhere in this Agreement, have the meaning given to such capitalized terms in the Avintiv Merger Agreement.

(ii) "Specified Merger Agreement Representations" the representations and warranties made by or with respect to Avintiv and its subsidiaries in the Avintiv Merger Agreement as are material to the interests of the Lenders (but only to the extent that the Borrower, Merger Sub or their respective affiliates have the right (taking into account any applicable cure provisions) not to consummate the Avintiv Merger, or to terminate their obligations (or otherwise do not have an obligation to close), under the Avintiv Merger Agreement as a result of a failure of such representations in the Avintiv Merger Agreement to be true and correct).

(iii) "Specified Representations" means the representations and warranties of the Borrower and the Guarantors in Sections 3.01(a) and (d), 3.02 other than clause (b)(i)(B) thereof (with respect to only the Loan Documents delivered or in effect on the Effective Date and the collateral-related deliveries and actions made or taken on the Effective Date), 3.03 (with respect to only the Loan Documents delivered or in effect on the Effective Date and the collateral-related deliveries and actions made or taken on the Effective Date), 3.10, 3.11, 3.17, 3.19(a), 3.22 (with respect to only a Specified Event of Default) and 3.25.

(iv) "Term F Lead Arrangers" means Credit Suisse Securities (USA) LLC and Goldman Sachs Bank USA (through itself or one of its affiliates).

SECTION 3. Additional Amendments; Consent.

Effective on the Effective Date and subject to the satisfaction of the terms and conditions set forth herein:

(a) the following definitions shall be inserted in Section 1.01 of the Credit Agreement in alphabetical order:

"Avintiv" means AVINTIV Inc., a Delaware corporation

"Avintiv Merger" means the merger of Merger Sub with and into Avintiv in accordance with the Avintiv Merger Agreement.

"Avintiv Merger Agreement" means that agreement and plan of merger (together with the schedules and exhibits thereto), dated as of July 30, 2015, by and among Parent, Berry Plastics Acquisition Corporation a, a wholly-owned subsidiary of the Borrower ("Merger Sub"), Avintiv and the securityholder representative identified therein.

"Avintiv Transactions" means (i) the Avintiv Merger, (ii) the execution of this Agreement and the borrowing of Term F Loans hereunder and (iii) the issuance and sale by the Borrower of up to \$600 million aggregate principal amount of second lien secured notes.

"Limited Condition Acquisition" means any acquisition, including by way of merger, amalgamation or consolidation, by one or more of the Borrower or its Restricted Subsidiaries of any assets, business or Person permitted by this Agreement whose consummation is not conditioned on the availability of, or on obtaining, third party acquisition financing and which is designated as a Limited Condition Acquisition by the Borrower in writing to the Administrative Agent and Lenders.

"Specified Event of Default" means an Event of Default under Section 7.01(b), (c), (h) or (i).

(b) Clause (i) of the definition of "Permitted Business Acquisition" in Section 1.01 of the Credit Agreement shall be amended by adding the following to the end thereof: "(or, in connection with a Limited Condition Acquisition, no Specified Event of Default shall have occurred and be continuing or would result therefrom)".

(c) Section 2.21(c)(i) of the Credit Agreement shall be deleted and replaced in its entirety with the following:

"(i) on the date of such effectiveness, (x) the representations and warranties set forth in Article III shall be true and correct in all material respects as of such date, in each case, with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such earlier date), immediately after giving effect to such Borrowing and no Event of Default or Default shall have occurred and be continuing or would result therefrom or (y) if the proceeds of such Incremental Term Loans are being used to fund a Limited Condition Acquisition, and the Lenders providing such Incremental Term Loans so agree, the availability thereof shall be subject to customary "SunGard" conditionality, it being

understood that in any event, no Specified Event of Default shall have occurred and be continuing or result from such Borrowing and the use of proceeds thereof, and in each case the Administrative Agent shall have received a certificate to that effect dated such date and executed by a Responsible Officer of the Borrower,"

- (d) Article III of the Credit Agreement shall be amended by adding the following as new Section 3.25:

"Section 3.25. Sanctioned Persons; Anti-Money Laundering; Etc.

(a) The operations of the Borrower, the Loan Parties and their respective subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the money laundering statutes and the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Borrower or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Borrower, threatened.

(b) None of the Borrower, the Loan Parties or any of their respective subsidiaries or to the knowledge of the Borrower or the Loan Parties, any director, officer, agent, employee or affiliate of the Borrower or any of its subsidiaries (i) is 50% or more owned by or is acting on behalf of, an individual or individuals or entity or entities that are currently the subject of any sanctions administered or enforced by the United States (including any administered or enforced by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury, the U.S. Department of State or the Bureau of Industry and Security of the U.S. Department of Commerce), the United Nations Security Council, the European Union, the United Kingdom (including sanctions administered or enforced by Her Majesty's Treasury) or other relevant sanctions authority (collectively, "Sanctions") and such persons, "Sanctioned Persons" and each such person, a "Sanctioned Person"), (ii) is organized or resident in a country or territory that is, or whose government is, the subject of Sanctions that broadly prohibit dealings with that country or territory (collectively, "Sanctioned Countries" and each, a "Sanctioned Country") or (iii) will, directly or indirectly, use the proceeds of the Loans, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other individual or entity in any manner that would result in a violation of any Sanctions by, or could result in the imposition of Sanctions against, any individual or entity (including any individual or entity making any Loans, whether as Lender, advisor, investor or otherwise). Neither the Borrower, the Loan Parties nor any of their respective subsidiaries has engaged in any dealings or transactions with or for the benefit of a Sanctioned Person, or with or in a Sanctioned Country, in the preceding 3 years in violation of law, nor does the Borrower, the Loan Parties nor any of their respective subsidiaries have any plans to increase its dealings or transactions with or for the benefit of Sanctioned Persons, or with or in Sanctioned Countries in violation of law.

(c) None of the Borrower, the Loan Parties or any of their respective subsidiaries nor, to the knowledge of the Borrower or the Loan Parties, any director, officer, agent, employee or Affiliate of the Borrower, the Loan Parties or any of their respective subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "FCPA"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the

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giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA; and the Borrower, the Loan Parties and their respective subsidiaries and, to the knowledge of the Borrower and the Loan Parties, their controlled Affiliates have conducted their businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(d) Holdings, the Borrower and the Subsidiaries are in compliance, in all material re-

spects, with the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001, as amended from time to time)) (the "PATRIOT Act").

(e) Section 5.10(b)(ii) of the Credit Agreement shall be deleted and replaced in its entirety with the following "(ii) if such asset is comprised of Real Property with a value of over \$10 0 million at the time of acquisition, deliver to Collateral Agent an updated Schedule 1.01(c) reflecting the addition of such asset, and".

(f) Section 5.10(c) of the Credit Agreement shall be amended by deleting "\$5 0 million" and replacing it with "\$10.0 million".

(g) Section 5.10(d) of the Credit Agreement shall be amended by adding after "within 20 Business Days" the following: "(or 90 Business Days, if such Subsidiary Loan Party is acquired in connection with the Avintiv Merger and is owned directly or indirectly by a Foreign Subsidiary)".

(h) Section 6.01(r) of the Credit Agreement shall be amended by (I) in clause (i)(A), adding the following to the end thereof: "(or, if the proceeds of such Indebtedness are being used to fund a Limited Condition Acquisition, at the time of the incurrence of such Indebtedness and after giving effect thereto, no Specified Event of Default shall have occurred and be continuing or would result therefrom)" and (II) in clause (i)(C), deleting "3.75 to 1.00" and replacing it with "4.00 to 1.00".

(i) Section 6.02(u) of the Credit Agreement shall be amended by (I) in clause (i) of the proviso, deleting "3.75 to 1.00" and replacing it with "4.00 to 1.00" and (II), in clause (ii) of the proviso, adding the following to the end thereof: "(or, if the proceeds of such Indebtedness are being used to fund a Limited Condition Acquisition, at the time of the incurrence of such Indebtedness and after giving effect thereto, no Specified Event of Default shall have occurred and be continuing or would result therefrom)".

(j) Each Lender party hereto hereby consents to the release of Liens granted prior to the Effective Date in favor of the Collateral Agent and/or the other Secured Parties encumbering any Real Property comprising Mortgaged Property, from time to time upon the Borrower's written request for such release, which Mortgaged Property does not individually have a fair market value in excess of \$10 0 million as of the Effective Date (each such Mortgaged Property being marked by asterisk on Schedule 3(i) hereto).

#### **SECTION 4. Conditions to Effectiveness.**

The Incremental Term Lender agrees to make its Term F Loans to the Borrower in an aggregate principal amount not to exceed its Term F Loan Commitment on and as of the date (the "Effective Date") on which the following conditions shall have been satisfied:

(a) The Administrative Agent (or its counsel) shall have received from each party hereto including at least the Required Lenders prior to giving effect to this Amendment either (i)

a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received, on behalf of itself and the Lenders, a favorable written opinion of (i) Bryan Cave LLP, special counsel for the Loan Parties, (ii) Jason Greene, in-house counsel for the Loan Parties, (iii) VanCott, Bagley, Cornwall & McCarthy, P.C., Utah counsel for certain of the Loan Parties, (iv) Richards, Layton & Finger, P.A., Delaware counsel for certain of the Loan Parties, (v) Faegre Baker Daniels, LLP, Minnesota counsel for certain of the Loan Parties, (vi) Gess Gess & Wallace, New Jersey counsel for certain of the Loan Parties, (vii) Foley & Lardner LLP, Wisconsin counsel for certain of the Loan Parties, and (viii) Venable LLP, Maryland counsel for certain of the Loan Parties, in each case, each (A) dated the Effective Date, (B) addressed to the Administrative Agent, the Collateral Agent and the Lenders and (C) customary in form and substance for transactions of the type contemplated hereby and reasonably satisfactory to the Administrative Agent and covering such matters as are customary for transactions of the type contemplated hereby and consistent with the opinions delivered in connection with the Prior Incremental Assumption Agreements (to the extent applicable).

(c) The Administrative Agent shall have received in the case of each Loan Party each of the items referred to in clauses (i), (ii), (iii) and (iv) below:

(i) a copy of the certificate or articles of incorporation, certificate of limited partnership or certificate of formation, including all amendments thereto, of each Loan Party, (A) in the case of a corporation, certified as of a recent date by the Secretary of State (or other similar official) of the jurisdiction of its organization, and a certificate as to the good standing (to the extent such concept or a similar concept exists under the laws of such jurisdiction) of each such Loan Party as of a recent date from such Secretary of State (or other similar official) or (B) in the case of a partnership or limited liability company, certified by the Secretary or Assistant Secretary of each such Loan Party;

(ii) a certificate of the Secretary or Assistant Secretary or similar officer of each Loan Party dated the Effective Date and certifying that attached thereto is a true and complete copy of the by-laws (or partnership agreement, limited liability company agreement or other equivalent governing documents) of such Loan Party as in effect on the Effective Date and at all times since the date of the resolutions described in clause (B) below,

(A) that attached thereto is a true and complete copy of resolutions duly adopted by the Board of Directors (or equivalent governing body) of such Loan Party (or its managing general partner or managing member) authorizing the execution, delivery and performance of this Agreement and, in the case of the Borrower, the borrowing of Term F Loans, and that such resolutions have not been modified, rescinded or amended and are in full force and effect on the Effective Date,

(B) that the certificate or articles of incorporation, certificate of limited partnership or certificate of formation of such Loan Party has not been amended since the date of the last amendment thereto disclosed pursuant to clause (i) above,

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(C) as to the incumbency and specimen signature of each officer executing this Agreement or any other document delivered in connection herewith on behalf of such Loan Party, and

(D) as to the absence of any pending proceeding for the dissolution or liquidation of such Loan Party or, to the knowledge of such person, threatening the existence of such Loan Party;

(iii) certification of a director or another officer as to the incumbency and specimen signature of the Secretary or Assistant Secretary or similar officer executing the certificate delivered pursuant to Section 4(c)(ii); and

(iv) a certificate of a Responsible Officer of the Borrower as to satisfaction of the condition set forth in Section 4(g) hereof.

(d) The Administrative Agent, the Term F Lead Arrangers and the Incremental Term Lender shall have received all fees due and payable thereto on or prior to the Effective Date and, to the extent invoiced at least three business days prior to the Effective Date, all other amounts due and payable (whether pursuant to the Loan Documents or that certain Amended and Restated Fee Letter, dated as of August 11, 2015 among the Borrower, Credit Suisse AG, Cayman Islands Branch, Credit Suisse Securities (USA) LLC and Goldman Sachs Bank USA, Barclays Bank PLC, Bank of America, N.A., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Citi (as defined therein), Wells Fargo Bank, National Association, WF Investment Holdings, LLC and Wells Fargo Securities, LLC (the "Original Commitment Parties") (as amended by that certain Commitment Letter and Fee Letter Joinder, dated as of August 14, 2015 among the Original Commitment Parties and Deutsche Bank Securities Inc., Deutsche Bank AG New York Branch and Deutsche Bank AG Cayman Islands Branch) on or prior to the Effective Date, including, to the extent invoiced, reimbursement or payment of all reasonable out-of-pocket expenses (including reasonable fees, charges and disbursements of Cahill Gordon & Reindel LLP and local counsel) required to be reimbursed or paid by the Loan Parties hereunder or under any Loan Document.

(e) The Administrative Agent shall have received, for the account of each Incremental Term Lender, an upfront fee in an amount equal to 0.50% of the sum of the aggregate principal amount of the Term F Loans, which upfront fee may be structured as original issue discount at the option of the Term F Lead Arrangers.

(f) The Administrative Agent shall have received a consent fee payable in Dollars for the account of each Lender that has returned an executed signature page to this Amendment to the Administrative Agent at or prior to 5:00 p.m., New York City time September 15, 2015 (the "Consent Deadline"; each such Lender, a "Consenting Lender") equal to 0.05% of the aggregate principal amount of the aggregate principal amount of the Term E Loans and/or Term D Loans held by such Consenting Lender (which for the avoidance of doubt does not include any Term F Loans held by such Consenting Lender as of the Consent Deadline).

(g) (A) The Specified Merger Agreement Representations shall be true and correct, except to the extent that failure of such Specified Merger Agreement Representations to be true and correct would not give the Borrower (or a subsidiary) the right to terminate its (or its affiliates') obligations under the Avintiv Merger Agreement or choose not to consummate the Merger, or result in a failure to satisfy a condition to the Borrower's (or the Borrower's affiliates') obligations to consummate the Avintiv Merger pursuant to the Avintiv Merger Agreement, (B) the

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Specified Representations shall be true and correct in all material respects; provided that any such Specified Representation that is qualified by materiality or a reference to "Material Adverse Effect" shall be true and correct in all respects, (C) the representations and warranties in Section 6 of this Agreement shall be true and correct in all material respects and (D) no Specified Event of Default shall have occurred and be continuing or would result therefrom.

(h) The Avintiv Merger shall be consummated substantially concurrently with the making by the Incremental Term Lender of its Term F Loans to the Borrower on the Effective Date in accordance with the Avintiv Merger Agreement.

(i) The Term F Lead Arrangers shall have received for each of the Borrower and Avintiv (a) U.S. GAAP audited consolidated balance sheets and related statements of income, stockholders' equity and cash flows for the three most recent fiscal years ended at least 90 days prior to the Effective Date and (b) U.S. GAAP unaudited consolidated and consolidated balance sheets and related statements of income, stockholders' equity and cash flows for each subsequent fiscal quarter ended at least 45 days before the Effective Date, which financial statements shall, in all material respects, meet the requirements of Regulation S-X under the Securities Act of 1933, as amended, and all other accounting rules and regulations of the SEC promulgated thereunder applicable to Form 10-K or Form 10-Q, as applicable, and a registration statement under such Act on Form S-3.

(j) The Term F Lead Arrangers shall have received a pro forma consolidated balance sheet and related pro forma consolidated statement of income of the Borrower as of and for the twelve-month period ending on the last day of the most recently completed four-fiscal quarter period for which financial statements have been delivered pursuant to paragraph (i) above, prepared after giving effect to the Avintiv Transactions as if the Avintiv Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of the income statement) and in compliance with Regulation S-X of the Securities Act of 1933.

(k) The Administrative Agent shall have received a certificate from the chief financial officer of the Borrower in the form attached as Annex C hereto certifying that the Borrower and its subsidiaries, on a consolidated basis after giving effect to the Avintiv Transactions and the other transactions contemplated hereby, are solvent.

(l) The Term F Lead Arrangers shall have received, at least three business days prior to the Effective Date, all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act, to the extent requested in writing at least 10 days prior to the Effective Date.

(m) Substantially concurrently with the making by the Incremental Term Lender of its Term F Loans to the Borrower on the Effective Date, the outstanding indebtedness of the Avintiv and its subsidiaries listed on Annex B attached hereto and incorporated herein by this reference shall have been repaid in full (or, in the case of indenture notes, provision for the redemption thereof in full and satisfaction and discharge or defeasance of the related indenture will be made) and all commitments, guarantees and security interests in respect of any such indebtedness of the Avintiv and its subsidiaries outstanding prior to the Avintiv Transactions shall have been terminated.

(n) Since the date of the Avintiv Merger Agreement, there shall not have been an Avintiv Material Adverse Effect.

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(o) The Administrative Agent shall have received a Borrowing Request as required by Section 2.03 of the Credit Agreement.

(p) The Administrative Agent shall have received a "Life-of-Loan" flood hazard determination notice for each real property encumbered by a Mortgage, and if such real property is located in a special flood hazard area, (x) a notice about special flood hazard area status and flood disaster assistance duly executed by the Borrower and the applicable Loan Party and (y) certificates of flood insurance evidencing any such insurance required by the Credit Agreement.

**SECTION 5. Post Effective Date Security Documentation.**

(a) The Borrower shall and shall cause each Material Subsidiary to within 120 days after the Effective Date (or such longer period as the Administrative Agent may determine), execute, deliver and file, as applicable amendments (to the extent reasonably required by the Administrative Agent) to the Mortgages existing prior to the Effective Date (other than such Mortgages which are released in their entirety in connection with the effectiveness of the amendments set forth in this Agreement to Section 5.10(b) and 5.10(c) of the Credit Agreement pursuant to Section 4 of this Agreement) to give effect to the Term F Loans, together with (w) such title endorsements to the existing title insurance policies relating to the property subject to such Mortgages as are reasonably required by the Administrative Agent, which shall be in the same insured amount and otherwise consistent with those that have been issued previously in connection with such title insurance policies (it being understood that the Borrower shall not be required to deliver (I) any zoning opinion (except that if reasonably required by the title insurer, the Borrower shall provide customary zoning reports from a national zoning information service), or (II) any new, updated or revised survey (subject to any "no-change" survey affidavit below), (x) such owner's title affidavits as may be reasonably required by the title insurer (if any) in substantially the form previously accepted by the title insurer with respect to such Mortgages, including therein any so-called "no-change" survey affidavit, (y) any documents required in connection with the recording of such mortgage amendments and (z) with respect to each Mortgage amendment, an opinion of local counsel (to the extent delivered in connection with previous amendments of the Mortgages required to give effect to the Term E Loans, if any), in form and substance substantially consistent (or with such changes requested by such local counsel as the Administrative Agent shall agree, in its reasonable discretion) with those, if any, delivered in connection with previous amendments to the Mortgages.

(b) Within 120 days (or such longer period as the Administrative Agent may determine) after the Effect Date, the Collateral Agent shall have received (i) counterparts of each Mortgage to be entered into with respect to each Real Property with a value of over \$10 0 million acquired in connection with the Avintiv Merger duly executed and delivered by the record owner of such Mortgaged Property and suitable for recording or filing and (ii) such other documents including, but not limited to, any consents, agreements and confirmations of third parties, as the Collateral Agent may reasonably request with respect to any such Mortgage or Mortgaged Property, (iii) a policy or policies or marked-up unconditional binder of title insurance or foreign equivalent thereof, as applicable, paid for by the Borrower, issued by a nationally recognized title insurance company insuring the Lien of each such Mortgage to be entered into on or after the Effective Date as a valid first Lien on the Mortgaged Property described therein, free of any other Liens except as permitted by Section 6.02 of the Credit Agreement and Liens arising by operation of law, together with such customary endorsements (including zoning endorsements where reasonably appropriate and available), coinsurance and reinsurance as the Collateral Agent may reasonably request, and with respect to any such property located in a state in which a zoning endorsement is not available, a zoning compliance letter from the applicable municipality in a form reasonably acceptable to the Collateral Agent and (iv) at or prior to delivery of such Mortgages, "Life-of-Loan" flood hazard determination notice for each real property encumbered by a Mortgage, and if such real property is located in a special flood hazard area, (x) a notice about special flood hazard area status

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and flood disaster assistance duly executed by the Borrower and the applicable Loan Party and (y) certificates of flood insurance evidencing any such insurance required by the Credit Agreement.

**SECTION 6.** Representations and Warranties. On the Effective Date, the Loan Parties represent and warrant to the Incremental Term Lender that: (a) the execution, delivery and performance by Holdings, the Borrower and each of the Subsidiary Loan Parties of this Agreement and the incurrence of the Term F Loans hereunder and under the Credit Agreement (as amended hereby) are permitted under, and do not conflict with or violate, the terms of the Credit Agreement, the Existing ABL Credit Agreement, the Intercreditor Agreement or the Senior Lender Intercreditor Agreement, (b) no default shall exist under the Credit Agreement, the Existing ABL Credit Agreement, and any indenture and supplemental indenture governing the senior notes issued by the Borrower and outstanding on the Effective Date, (c) no action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required in connection with this Agreement or the incurrence by the Borrower of the Term F Loans, except for the actions contemplated by Section 5 above.

**SECTION 7.** Reference to and Effect on the Credit Agreement: Confirmation of Guarantors.

(a) On and after the effectiveness of this Agreement, each reference in the Credit Agreement to "this Agreement", "hereunder", "hereof" or words of like import referring to the Credit Agreement, shall mean and be a reference to the Credit Agreement, as amended by, and after giving effect to, this Agreement.

(b) Each Loan Document, after giving effect to this Agreement, is and shall continue to be in full force and effect and is hereby in all respects ratified and confirmed, except that, on and after the effectiveness of this Agreement, each reference in each of the Loan Documents (including the Collateral Agreement and the other Security Documents) to the "Credit Agreement", "thereunder", "thereof" or words of like import referring to the Credit Agreement shall mean and be a reference to the Credit Agreement, as amended by, and after giving effect to, this Agreement, and each reference to "Lender" therein shall, for the avoidance of doubt, include each Incremental Term Lender (as defined in the Credit Agreement), including the Incremental Term Lender. Without limiting the generality of the foregoing, the Security Documents (in the case of the Mortgages, after giving effect to any amendments thereto required to give effect to the Term F Loans) and all of the Collateral described therein do and shall continue to secure the payment of all Obligations of the Loan Parties under the Loan Documents, as amended by, and after giving effect to, this Agreement (in the case of the Mortgages, subject to any limitations contained in the Mortgages on maximum indebtedness or maximum indebtedness permitted to be secured thereby), in each case subject to the terms thereof

(c) Each Loan Party hereby (i) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under each of the Loan Documents to which it is a party, (ii) ratifies and reaffirms each grant of a lien on, or security interest in, its property made pursuant to the Loan Documents (including, without limitation, the grant of security made by such Loan Party pursuant to the Collateral Agreement) and confirms that (in the case of the Mortgages, if any after giving effect to any amendments required to give effect to the Term F Loans) such liens and security interests continue to secure the Obligations under the Loan Documents, including, without limitation, all Obligations resulting from or incurred pursuant to the Term F Loans (in the case of the Mortgages, subject to any limitations contained in the Mortgages on maximum indebtedness or maximum indebtedness permitted to be secured thereby), in each case subject to the terms thereof and (iii) in the case of each Guarantor, ratifies and reaffirms its guaranty of the Obligations pursuant to Article II of the Collateral Agreement.

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- (d) The execution, delivery and effectiveness of this Agreement shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any Lender or any Agent under any of the Loan Documents, or constitute a waiver of any provision of any of the Loan Documents.
- (e) This Agreement is a Loan Document.

**SECTION 8. Incremental Term Lender.**

(a) The Incremental Term Lender (i) confirms that it has received a copy of the Credit Agreement, together with copies of the financial statements referred to in Section 5.04 thereof and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Agreement; (ii) agrees that it will, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement; (iii) represents and warrants that its name set forth on its signature page hereto is its legal name; (iv) confirms that it is not the Borrower or any of its Subsidiaries or an Affiliate of any of them; (v) appoints and authorizes each Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Loan Documents as are delegated to such Agent by the terms thereof, together with such powers and discretion as are reasonably incidental thereto; (vi) agrees that it will perform in accordance with their terms all of the obligations that by the terms of the Credit Agreement are required to be performed by it as a Lender; and (vii) attaches any U.S. Internal Revenue Service forms required under Section 2.17 of the Credit Agreement.

(b) On and after the Effective Date, the Incremental Term Lender shall be a party to the Credit Agreement as a Lender and shall have all of the rights and obligations of a Lender thereunder. All notices and other communications provided for hereunder or under the Loan Documents to the Incremental Term Lender shall be to its address as set forth in the administrative questionnaire it has furnished to the Administrative Agent.

**SECTION 9. Costs, Expenses.**

The Borrower agrees to pay all reasonable out-of-pocket costs and expenses (including Other Taxes) incurred by the Administrative Agent in connection with the preparation, execution and delivery of this Agreement and the other instruments and documents to be delivered hereunder (including, without limitation, the reasonable fees and expenses of counsel for the Administrative Agent) in accordance with the terms of Section 9.05 of the Credit Agreement.

**SECTION 10. Execution in Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute but one contract, and shall become effective as provided in Section 4. Delivery of an executed counterpart to this Agreement by facsimile transmission (or other electronic transmission pursuant to procedures approved by the Administrative Agent) shall be effective as delivery of a manually signed original.

**SECTION 11. Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

*[Remainder of page intentionally left blank]*

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

BERRY PLASTICS CORPORATION

By: /s/ Jason Greene  
Name: Jason Greene  
Title: Executive Vice President, General Counsel and Secretary

BERRY PLASTICS GROUP, INC.

By: /s/ Jason K. Greene  
Name: Jason K. Greene  
Title: Executive Vice President, General Counsel and Secretary

*[Signature Page for Incremental Assumption Agreement and Amendment]*

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BERRY PLASTICS ACQUISITION CORPORATION V  
BERRY PLASTICS ACQUISITION CORPORATION IX  
BERRY PLASTICS ACQUISITION CORPORATION XI  
BERRY PLASTICS ACQUISITION CORPORATION XII  
BERRY PLASTICS ACQUISITION CORPORATION XIII  
BERRY PLASTICS FILMCO, INC.  
BERRY PLASTICS OPCO, INC.  
BERRY PLASTICS SP, INC.  
BERRY PLASTICS TECHNICAL SERVICES, INC.  
BERRY STERLING CORPORATION  
BPRES CLOSURES KENTUCKY INC.  
BPRES DELTA INC.  
BPRES BRAZIL HOLDING INC.  
BPRES HEALTHCARE BROOKVILLE INC.  
BPRES HEALTHCARE PACKAGING INC.  
BPRES PLASTIC PACKAGING INC.  
BPRES PLASTICS SERVICES COMPANY INC.  
BPRES PRODUCT DESIGN AND ENGINEERING INC.  
BPRES SPECIALTY PRODUCTS PUERTO RICO INC.  
CARDINAL PACKAGING, INC.  
CPI HOLDING CORPORATION  
PESCOR, INC.  
PLIANT CORPORATION INTERNATIONAL  
PRIME LABEL & SCREEN INCORPORATED  
ROLLPAK CORPORATION  
VENTURE PACKAGING, INC.  
VENTURE PACKAGING MIDWEST, INC.  
UNIPLAST U.S., INC.

By: /s/ Jason K. Greene  
Name: Jason K. Greene  
Title: Executive Vice President, General Counsel and Secretary

*[Signature Page for incremental Assumption Agreement and Amendment]*

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AEROCON, LLC  
BERRY PLASTICS ACQUISITION CORPORATION XV,LLC  
BERRY PLASTICS ACQUISITION LLC X  
BERRY PLASTICS DESIGN, LLC  
BERRY PLASTICS IK, LLC  
BPRES CLOSURES, LLC  
BPRES CLOSURE SYSTEMS, LLC  
CAPLAS, LLC  
CAPLAS NEPTUNE, LLC  
CAPTIVE PLASTICS, LLC  
CAPTIVE PLASTICS HOLDINGS, LLC  
COVALENCE SPECIALTY ADHESIVES LLC  
COVALENCE SPECIALTY COATINGS LLC  
KERR GROUP, LLC  
KNIGHT PLASTICS, LLC  
PACKERWARE, LLC  
PLIANT, LLC  
POLY-SEAL, LLC  
SAFFRON ACQUISITION, LLC  
SEAL FOR LIFE INDUSTRIES, LLC  
SETCO, LLC  
SUN COAST INDUSTRIES, LLC  
UNIPLAST HOLDINGS, LLC

By: /s/ Jason K. Greene  
Name: Jason K. Greene  
Title: Executive Vice President, General Counsel and Secretary

*[Signature Page for Incremental Assumption Agreement and Amendment]*

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GRAFCO INDUSTRIES LIMITED PARTNERSHIP

By: CAPLAS NEPTUNE, LLC  
its General Partner

By: /s/ Jason K. Greene  
Name: Jason K. Greene  
Title: Executive Vice President, General Counsel and Secretary

*[Signature Page for Incremental Assumption Agreement and Amendment]*

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CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as Administrative Agent

By: /s/ Robert Hetu  
Name: Robert Hetu  
Title: Authorized Signatory

By: /s/ Michael Moreno  
Name: Michael Moreno  
Title: Authorized Signatory

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CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as Incremental Term Lender

By: /s/ Robert Hetu  
Name: Robert Hetu  
Title: Authorized Signatory

By: /s/ Michael Moreno  
Name: Michael Moreno  
Title: Authorized Signatory

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**Schedule 1**

<b><u>Incremental Term Lender</u></b>	<b><u>Term F Loan Commitments</u></b>
Credit Suisse AG, Cayman Islands Branch	\$2,100,000,000.00

*Sch 1-1*

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Schedule 3(i)**Mortgaged Properties**

As of Effective Date

Berry Plastics Corporation:

1. 9534 Foley Boulevard, Coon Rapids, Minnesota (Anoka County)\*\*
2. 4613 Central Avenue, Monroe, Louisiana (Ouachita Parish) \*\*
3. 1 Armin Road, Pryor, Oklahoma (Mayes County) \*\*
4. 1800 North M Avenue, Sioux Falls, South Dakota (Minnehaha County) \*\*
5. 202 S. John Stockbauer Drive, Victoria, Texas (Victoria County) \*\*
6. 3414 Wesley Chapel-Stouts Road, Monroe, North Carolina (Union County) \*\*
7. 800 East Horizon Drive, Henderson, Nevada (Clark County) \*\*

Covalence Specialty Adhesives, LLC:

8. 2320 Bowling Green Road, Franklin, Kentucky (Simpson County) \*\*

Berry Plastics Design, LLC:

9. 1401 Progress Road, Suffolk, Virginia (City of Suffolk)\*\*

Venture Packaging Midwest, Inc.:

10. 311 W. Monroe Street, Monroeville, Ohio (Huron County) \*\*

Cardinal Packaging, Inc.:

11. 1275 Ethan Avenue, Streetsboro, Ohio (Portage County)\*\*

Knight Plastics, LLC:

12. 1008 Courtaulds Drive, Woodstock, Illinois (McHenry County) \*\*

Sun Coast Industries, LLC:

13. 7350 26<sup>th</sup> Ct. East, Sarasota, Florida (Manatee County)\*\*

BPRex Healthcare Packaging, Inc.:

14. 1900 Commerce Parkway, Franklin, Indiana (Johnson County)\*\*

Annex A

Subject to the provisions of Section 2.10 of the Credit Agreement, the Borrower shall repay Term F Loans on each date set forth below in the aggregate principal amount set forth opposite such date (each such date being referred to as a "Term F Loan Installment Date").

<u>Date</u>	<u>Amount of Term F Loans to Be Repaid</u>
December 31, 2015	\$5,250,000
March 31, 2016	\$5,250,000
June 30, 2016	\$5,250,000
September 30, 2016	\$5,250,000
December 31, 2016	\$5,250,000
March 31, 2017	\$5,250,000
June 30, 2017	\$5,250,000
September 30, 2017	\$5,250,000
December 31, 2017	\$5,250,000
March 31, 2018	\$5,250,000
June 30, 2018	\$5,250,000
September 30, 2018	\$5,250,000
December 31, 2018	\$5,250,000
March 31, 2019	\$5,250,000
June 30, 2019	\$5,250,000
September 30, 2019	\$5,250,000
December 31, 2019	\$5,250,000
March 31, 2020	\$5,250,000
June 30, 2020	\$5,250,000
September 30, 2020	\$5,250,000
December 31, 2020	\$5,250,000
March 31, 2021	\$5,250,000
June 30, 2021	\$5,250,000
September 30, 2021	\$5,250,000
December 31, 2021	\$5,250,000
March 31, 2022	\$5,250,000
June 30, 2022	\$5,250,000
Incremental Term Facility Maturity Date with respect to the Term F Loans	\$1,958,250,000 or remainder

Annex A-1



Annex BList of Avintiv Indebtedness to be Repaid or Discharged on Effective Date

1. \$50 million senior secured revolving credit facility made pursuant to that certain Credit Agreement dated as of January 28, 2011, by and among Scorpio Acquisition Corporation, Avintiv, other affiliates of Avintiv (if any) as additional borrowers party thereto (if any), Citibank, N.A., as administrative agent and collateral agent, and the lenders party thereto, as amended.
2. Term loans made pursuant to that certain Senior Secured Credit Agreement dated as of December 19, 2013, by and among Scorpio Acquisition Corporation, Avintiv, Citicorp North America, Inc., as administrative agent, and the lenders party thereto, as amended.
3. \$560 million 7.75% Senior Secured Notes due 2019.
4. \$210 million 6.875% Senior Notes due 2019.

*Annex B*

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Annex C

## SOLVENCY CERTIFICATE

[ ], 201[ ]

Reference is made to the Second Amended and Restated Term Loan Credit Agreement dated as of April 3, 2007 by and among Holdings, the Borrower, the Lenders and other parties thereto and Credit Suisse AG, Cayman Islands Branch (formerly known as Credit Suisse, Cayman Islands Branch), as administrative agent (as modified by that certain Incremental Assumption Agreement, dated as of February 8, 2013, that certain Incremental Assumption Agreement, dated as of January 6, 2014 and the Incremental Assumption Agreement and Amendment dated as of the date hereof, the "*Credit Agreement*"); unless otherwise defined herein, capitalized terms used in this Certificate shall have the meanings set forth in the Credit Agreement.

I, the undersigned, solely in my capacity as the Chief Financial Officer of the Borrower, and not in my individual capacity, do hereby certify that, on the Closing Date after giving effect to the Avintiv Transactions:

(a) the fair value of the property of the Borrower and its Subsidiaries (taken as a whole) is greater than the total amount of liabilities, including contingent liabilities, of the Borrower and its Subsidiaries (taken as a whole) (it being understood that the amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability);

(b) the present fair salable value of the assets of the Borrower and its Subsidiaries (taken as a whole) is not less than the amount that will be required to pay the probable liability of the Borrower and its Subsidiaries (taken as a whole) on their debts as they become absolute and matured;

(c) the Borrower and its Subsidiaries do not intend to, and do not believe that they will, incur debts or liabilities beyond their ability to pay such debts and liabilities as they become absolute and matured; and

(d) the Borrower and its Subsidiaries are not engaged in any business, as conducted on the Closing Date and as proposed to be conducted following the Closing Date, for which the property of the Borrower and its Subsidiaries (taken as a whole) would constitute an unreasonably small capital.

IN WITNESS WHEREOF, I have delivered this certificate as of the date first written above.

BERRY PLASTICS CORPORATION

By \_\_\_\_\_  
Name:  
Title: Chief Financial Officer

*Annex C*

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**EXHIBIT 12.1**

<b>Earnings to Fixed Charges</b>					
	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Earnings:					
Income (loss) before taxes	-346	4	85	67	86
Interest	327	328	244	221	191
Interest portion of rental expense	19	20	18	18	17
	0	352	347	306	294
Fixed Charges:					
Interest	327	328	244	221	191
Interest capitalized	3	5	5	6	6
Interest portion of rental expense	19	20	18	18	17
	349	353	267	245	215
Ratio	0.0	1.0	1.3	1.2	1.4
Shortfall (overage)	349	1	-80	-61	-80

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**BERRY PLASTICS GROUP, INC.**  
**LIST OF SUBSIDIARIES**

AeroCon, LLC  
Aspen Industrial S.A. de C.V.  
Berry Plastics (Australia) Pty Ltd.  
Berry Plastics Acquisition Corporation V  
Berry Plastics Acquisition Corporation XI  
Berry Plastics Acquisition Corporation XII  
Berry Plastics Acquisition Corporation XIII  
Berry Plastics Acquisition Corporation XIV, LLC  
Berry Plastics Acquisition Corporation XV, LLC  
Berry Plastics Acquisition LLC II  
Berry Plastics Acquisition LLC X  
Berry Plastics Asia Pacific Limited  
Berry Plastics Asia Pte. Ltd.  
Berry Plastics Beheer B.V.  
Berry Plastics Canada, Inc.  
Berry Plastics Corporation  
Berry Plastics de Mexico, S. de R.L. de C.V.  
Berry Plastics Design, LLC  
Berry Plastics Dutch Holding Cooperatief U. A.  
Berry Plastics Filmco, Inc.  
Berry Plastics France Holdings SAS  
Berry Plastics GmbH  
Berry Plastics Group, Inc.  
Berry Plastics Holding GmbH & Co. KG  
Berry Plastics Hong Kong Limited  
Berry Plastics IK, LLC  
Berry Plastics International B.V.  
Berry Plastics International C.V.  
Berry Plastics International GmbH  
Berry Plastics International, LLC  
Berry Plastics Malaysia SDN BHD  
Berry Plastics Opco, Inc.  
Berry Plastics Qingdao Limited  
Berry Plastics SP, Inc.  
Berry Plastics Technical Services, Inc.  
Berry Sterling Corporation  
BPRex Brazil Holding Inc.  
BPRex Closure Systems, LLC  
BPRex Closures and Packaging Services Ltd.  
BPRex Closures Kentucky Inc.  
BPRex Closures, LLC  
BPRex de Mexico S.A. de R.L. de CV  
BPRex Delta Inc.  
BPRex Healthcare Brookville Inc.  
BPRex Healthcare Offranville SAS  
BPRex Healthcare Packaging, Inc.  
BPRex Participacoes Ltda  
BPRex Plastic Packaging (India) Ltd.

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BPRex Plastic Packaging de Mexico S.A. de C.V.  
BPRex Plastic Packaging, Inc.  
BPRex Plastics Services Company Inc.  
BPRex Plasticos Do Brasil Ltda  
BPRex Product Design & Engineering Inc.  
BPRex Singapore Pte. Ltd.  
BPRex Specialty Products Puerto Rico Inc.  
Caplas LLC  
Caplas Neptune, LLC  
Captive Plastics Holdings, LLC  
Captive Plastics, LLC  
Cardinal Packaging, Inc.  
Covalence Specialty Adhesives LLC  
Covalence Specialty Coatings LLC  
Seal for Life Industries Mexico, S. de R.L. de C.V.  
CPI Holding Corporation  
CSM Mexico SPV LLC  
Frans Nooren Afdichtingssystemen B.V.  
GrafcO Industries Limited Partnership  
Grupo de Servicios Berpla, S. de R.L. de C.V.  
Jacinto Mexico, S.A. de C.V.  
Kerr Group, LLC  
Knight Plastics, LLC  
Packerware, LLC  
Pescor, Inc.  
Pliant Corporation International  
Pliant de Mexico S.A. de C.V.  
Pliant, LLC  
Poly-Seal, LLC  
Prime Label & Screen Incorporated  
Rafypak, S.A. de C.V.  
BPREX Pharma Packaging India Private Limited  
Rollpak Corporation  
Saffron Acquisition, LLC  
Seal for Life India Private Limited  
Seal for Life Industries Beta LLC  
Seal for Life Industries BVBA  
Seal for Life Industries Tijuana LLC  
Seal for Life Industries, LLC  
Seal for Life Technologies & Services B.V.  
Setco, LLC  
Stopaq B.V.  
Stopaq Saudi Factory LLC  
Sun Coast Industries, LLC  
Tyco Acquisition Alpha LLC  
Uniplast Holdings, LLC  
Uniplast U.S., Inc.  
Venture Packaging Midwest, Inc.  
Venture Packaging, Inc.  
159422 Canada Inc.  
AVINTIV Inc.  
AVINTIV Acquisition Corporation

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AVINTIV Specialty Materials, Inc.  
Boddington International Limited  
Bonlam, S.A. DE C.V.  
Bonlam Holdings B.V.  
Chicopee, Inc.  
Chicopee Asia, Limited  
Chicopee Holdings B.V.  
Chicopee Holdings C.V.  
Companhai Providencia Industria e Comercio  
Cordustex Manufacturing (PTY) Limited  
Cordustex (PTY) Limited  
DT Acquisition Inc.  
DIFCO Performance Fabrics, Inc.  
Dominion Textile Inc.  
Dominion Textile Mauritius Inc.  
Dominion Textile (USA), LLC  
Dounor SAS  
Fabrene, LLC  
Fabrene, Inc.  
Fiberweb, Inc.  
Fiberweb Ltd.  
Fiberweb Asia Pacific Limited  
Fiberweb Berlin GmbH  
Fiberweb France SAS  
Fiberweb Geos, Inc.  
Fiberweb Geosynthetiques Sarl  
Fiberweb Geosynthetics Limited  
Fiberweb Holdings, Inc.  
Fiberweb Holdings Ltd  
Fiberweb Holdings Deutschland GmbH  
Fiberweb Industrial Textiles Corporation  
Fiberweb Italia SpA  
Fiberweb JV 1 Limited  
Fiberweb JV 2 Limited  
Fiberweb Technical Fabrics (Shanghai) Company Limited  
Fiberweb Terno D'Isola Srl  
Fiberweb (Tinjín) Specialty Nonwovens Company Limited  
Fiberweb UK Limited  
Fiberweb US Holdings Limited  
Fiberweb USA Holdings, Inc.  
Fiberweb Washougal, Inc.  
Geca-Tapes B.V.  
Korma SpA  
Nanhai Nanxin Non-Woven Co. Ltd  
Old Hickory Steamworks, LLC  
PGI Acquisition Limited  
PGI Argentina S.A.  
PGI Columbia LTDA  
PGI Europe, Inc.  
PGI France SAS  
PGI France Holdings SAS  
PGI Holdings BV

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PGI Netherlands Holdings B.V.  
PGI Netherlands Holdings (NO. 2) B.V.  
PGI Nonwovens (Mauritius)  
PGI Nonwovens B.V.  
PGI Nonwovens Germany GmbH  
PGI Nonwovens Limited  
PGI Non-Woven (China) Co. Ltd  
PGI Non-Woven (Foshan) Co. Ltd  
PGI Polimeros Do Brazil S.A.  
PGI Polymer, Inc.  
PGI Spain S.L. U  
Polymer Group Holdings C.V.  
Pristine Brands Corporation  
Providencia USA, Inc.  
SCI Vertuquet  
Terram Defencell Limited  
Terram Limited  
Terram Geosynthetics Private Limited  
Tesalca Polska SP ZO.O  
Tubex Limited

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**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the following Registration Statements:

- (1) Registration Statement (Form S-3ASR No. 333-194030) of Berry Plastics Group, Inc., and
- (2) Registration Statement (Form S-8 No. 333-184522) pertaining to the Berry Plastics Group, Inc. 2006 Equity Incentive Plan and the Berry Plastics Group, Inc. 2012 Long-Term Incentive Plan; and
- (3) Registration Statement (Form S-8 No. 333-203173) pertaining to the Berry Plastics Group, Inc. 2015 Long-Term Incentive Plan

of our reports dated November 23, 2015, with respect to the consolidated financial statements of Berry Plastics Group, Inc. and the effectiveness of internal control over financial reporting of Berry Plastics Group, Inc. included in this Annual Report (Form 10-K) of Berry Plastics Group, Inc. for the year ended September 26, 2015.

/s/ Ernst and Young LLP

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Indianapolis, Indiana  
November 23, 2015

**EXHIBIT 31.1**  
**CHIEF EXECUTIVE OFFICER CERTIFICATION**

I, Jonathan D. Rich, Chairman and Chief Executive Officer of Berry Plastics Group, Inc., certify that:

1. I have reviewed this annual report on Form 10-K of Berry Plastics Group, Inc. (the "Registrant");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: November 23, 2015

/s/Jonathan D. Rich  
\_\_\_\_\_  
Chairman and Chief Executive Officer

**EXHIBIT 31.2**  
**CHIEF FINANCIAL OFFICER CERTIFICATION**

I, Mark W. Miles, Chief Financial Officer of Berry Plastics Group, Inc., certify that:

1. I have reviewed this annual report on Form 10-K of Berry Plastics Group, Inc. (the “Registrant”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the Registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the Registrant’s internal control over financial reporting that occurred during the Registrant’s most recent fiscal quarter (the Registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant’s internal control over financial reporting; and
5. The Registrant’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant’s auditors and the audit committee of the Registrant’s board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant’s ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant’s internal control over financial reporting.

Date: November 23, 2015

/s/Mark W. Miles  
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Chief Financial Officer

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**CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the annual report of Berry Plastics Group, Inc. (the "Registrant") on Form 10-K for the fiscal year ended September 26, 2015, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jonathan D. Rich, Chairman and Chief Executive Officer of the Registrant, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

/s/ Jonathan D. Rich  
Jonathan D. Rich  
Chairman and Chief Executive Officer

Date: November 23, 2015

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**CERTIFICATION OF THE CHIEF FINANCIAL OFFICER PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the annual report of Berry Plastics Group, Inc. (the "Registrant") on Form 10-K for the fiscal year ended September 26, 2015, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Mark W. Miles, the Chief Financial Officer and Treasurer of the Registrant, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

/s/ Mark W. Miles

Mark W. Miles

Chief Financial Officer

Date: November 23, 2015

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