

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

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**FORM 8-K**

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**CURRENT REPORT**

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

**Date of Report (date of earliest event reported): December 13, 2007**

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**WESTLAKE CHEMICAL CORPORATION**

(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction  
of incorporation)

**001-32260**  
(Commission File Number)

**76-0346924**  
(I.R.S. Employer  
Identification No.)

**2801 Post Oak Boulevard, Suite 600**  
**Houston, Texas**  
(Address of principal executive offices)

**77056**  
(Zip Code)

**Registrant's telephone number, including area code: (713) 960-9111**

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 1.01 Entry into a Material Definitive Agreement**

On December 13, 2007, Westlake Chemical Corporation (the “Company”) completed the issuance of \$250 million of tax-exempt revenue bonds due November 1, 2032 with an interest rate of 6<sup>3</sup>/<sub>4</sub>% per annum (the “Bonds”). The Bonds were issued by the Louisiana Local Government Environmental Facilities and Community Development Authority, a political subdivision of the State of Louisiana (the “Authority”) under the Gulf Opportunity Zone Act of 2005.

In connection with the issuance of the Bonds, on December 13, 2007, the Company entered into a Loan Agreement, dated as of November 1, 2007 (the “Loan Agreement”), with the Authority pursuant to which the Company agreed to pay all of the principal, premium, if any, and interest on the Bonds and certain other amounts to the Authority. The proceeds from the Bond offering were loaned by the Authority to the Company. The Company intends to use the proceeds to expand, refurbish and maintain certain of its facilities in the Louisiana Parishes of Calcasieu and Ascension. To evidence and secure the Company’s obligations under the Loan Agreement, on December 13, 2007, the Company entered into a Second Supplemental Indenture, dated as of November 1, 2007 (the “Second Supplemental Indenture”), by and among the Company, the Subsidiary Guarantors (as defined therein) and The Bank of New York Trust Company, N.A. (as successor to JPMorgan Chase Bank, National Association, the “Notes Trustee”), supplementing that certain Indenture, dated as of January 1, 2006 (the “Base Indenture” and, together with the Second Supplemental Indenture, the “Senior Notes Indenture”), by and among the Company, the Potential Subsidiary Guarantors (as defined therein) and the Notes Trustee, and issued \$250 million aggregate principal amount of its 6<sup>3</sup>/<sub>4</sub>% Senior Notes due 2032 (the “Senior Notes”) to be held by the Notes Trustee pursuant to the terms and provisions of the Loan Agreement.

A more detailed description of the Loan Agreement, the Senior Notes and the Senior Notes Indenture is set forth in Exhibit 99.1 to this report, which is incorporated herein by reference. Copies of the Base Indenture, the Second Supplemental Indenture (including a form of the Senior Notes) and the Loan Agreement are filed as Exhibits 4.1, 4.2 and 10.1, respectively, to this report and are incorporated herein by reference.

The Company’s press release regarding the above transaction is attached as Exhibit 99.2 to this report.

**Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

Please refer to the information set forth in Item 1.01 above.

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**Item 9.01 Financial Statements and Exhibits****(d) Exhibits**

4.1 Indenture, dated as of January 1, 2006, among the Company, the Potential Subsidiary Guarantors (as defined therein) and the Notes Trustee (incorporated by reference to the Company's Current Report on Form 8-K, filed on January 13, 2006).

4.2 Second Supplemental Indenture (including a form of the Senior Notes), dated as of November 1, 2007, among the Company, the Subsidiary Guarantors (as defined therein) and the Notes Trustee.

10.1 Loan Agreement, dated as of November 1, 2007, by and between the Company and the Authority.

99.1 Description of the Loan Agreement, the Senior Notes and the Senior Notes Indenture.

99.2 Press release dated December 13, 2007.

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**WESTLAKE CHEMICAL CORPORATION**

By: /s/ Albert Chao  
Albert Chao  
President and Chief Executive Officer

Date: December 18, 2007

## EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Exhibit Description</u>
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99.2	Press release dated December 13, 2007.

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**WESTLAKE CHEMICAL CORPORATION AND THE SUBSIDIARY  
GUARANTORS PARTY HERETO**

**6<sup>3</sup>/<sub>4</sub>% Senior Notes due 2032**

\_\_\_\_\_  
**Second Supplemental Indenture**

**Dated as of November 1, 2007**

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**THE BANK OF NEW YORK TRUST COMPANY, N.A.  
Trustee**

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TABLE OF CONTENTS

	<u>Page</u>
ARTICLE ONE Scope of Supplemental Indenture; General	2
ARTICLE TWO Certain Definitions	2
ARTICLE THREE Redemption	27
Section 3.12. Redemption Based on Section 3.4 of the GO Zone Indenture.	27
ARTICLE FOUR Covenants	28
Section 4.08. Covenant Suspension.	28
Section 4.09. Restricted Payments.	28
Section 4.10. Dividend and Other Payment Restrictions Affecting Subsidiaries.	33
Section 4.11. Incurrence of Indebtedness and Issuance of Preferred Stock.	35
Section 4.12. Asset Sales.	39
Section 4.13. Change of Control.	42
Section 4.14. Transactions with Affiliates.	43
Section 4.15. Liens.	45
Section 4.16. Additional Guarantees.	46
Section 4.17. Designation of Restricted and Unrestricted Subsidiaries.	46
Section 4.18. Sale and Leaseback Transactions.	46
Section 4.19. Accounts Receivable Facilities.	47
Section 4.20. Payments for Consent.	47
Section 4.21. Other Reports	47
ARTICLE FIVE Successors	48
Section 5.01. Limitations on Mergers, Consolidations and Sales of Assets.	48
ARTICLE SIX Defaults and Remedies	49
Section 6.01. Events of Default.	49
Section 6.02. Acceleration.	51
ARTICLE SEVEN Miscellaneous	52
Section 7.01. Governing Law.	52
Section 7.02. No Adverse Interpretation of Other Agreements.	52
Section 7.03. Successors and Assigns; Transfer Restrictions.	53
Section 7.04. Duplicate Originals.	53
Section 7.05. Severability.	53
Section 7.06. Amendments Without Consent of Holders.	53
Section 7.07. Release of Subsidiary Guarantors from Guarantee.	53



SUPPLEMENTAL INDENTURE dated as of November 1, 2007 (“Supplemental Indenture”), to the Indenture dated as of January 1, 2006 (as amended, modified or supplemented from time to time in accordance therewith, the “Indenture”), by and among WESTLAKE CHEMICAL CORPORATION, a Delaware corporation (the “Company”), each of the Subsidiary Guarantors (as defined herein) and THE BANK OF NEW YORK TRUST COMPANY, N.A. (as successor to JPMorgan Chase Bank, National Association), as trustee (the “Trustee”).

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders of the Notes (as defined herein):

WHEREAS, the Company and the Louisiana Local Government Environmental Facilities and Community Development Authority (the “Authority”) have entered into that certain Loan Agreement dated as of November 1, 2007 (the “Loan Agreement”) in connection with the issuance as of the date hereof of \$250,000,000 aggregate principal amount of Louisiana Local Government Environmental Facilities and Community Development Authority Revenue Bonds (Westlake Chemical Corporation Projects), Series 2007 (the “GO Zone Bonds”), under the Trust Indenture, dated as of November 1, 2007 (the “GO Zone Indenture”), between the Authority and the The Bank of New York Trust Company, N.A., as trustee (the “GO Zone Trustee”);

WHEREAS, the Company and the Subsidiary Guarantors desire to issue the Notes to the trustee for the GO Zone Bonds to evidence the Company’s payment obligations under the Loan Agreement

WHEREAS, the Company, the Subsidiary Guarantors and the Trustee have duly authorized the execution and delivery of the Indenture to provide for the issuance from time to time of the Company’s debentures, notes, bonds or other evidences of indebtedness to be issued in one or more series as in the Indenture provided (as defined therein, “Securities”);

WHEREAS, the Company and the Subsidiary Guarantors desire and have requested the Trustee to join them in the execution and delivery of this Supplemental Indenture in order to establish and provide for the issuance by the Company of a series of Securities designated as its 6 3/4% Senior Notes due 2032, substantially in the form attached hereto as Exhibit A (the “Notes”), guaranteed by the Subsidiary Guarantors, on the terms set forth herein;

WHEREAS, Section 2.01 of the Indenture provides that a supplemental indenture may be entered into by the Company, the Subsidiary Guarantors and the Trustee for such purpose provided certain conditions are met;

WHEREAS, the conditions set forth in the Indenture for the execution and delivery of this Supplemental Indenture have been complied with; and

WHEREAS, all things necessary to make this Supplemental Indenture a valid agreement of the Company, the Subsidiary Guarantors and the Trustee, in accordance with its terms, and a valid amendment of, and supplement to, the Indenture have been done;

NOW, THEREFORE:

In consideration of the premises and the purchase and acceptance of the Notes by the Holders thereof, the Company and the Subsidiary Guarantors mutually covenant and agree with the Trustee, for the equal and ratable benefit of the Holders, that the Indenture is supplemented and amended, to the extent expressed herein, as follows:

#### ARTICLE ONE

##### **Scope of Supplemental Indenture; General**

The changes, modifications and supplements to the Indenture effected by this Supplemental Indenture shall be applicable only with respect to, and govern the terms of, the Notes, which shall not be limited in aggregate principal amount, and shall not apply to any other Securities that may be issued under the Indenture unless a supplemental indenture with respect to such other Securities specifically incorporates such changes, modifications and supplements. Pursuant to this Supplemental Indenture, there is hereby created and designated a series of Securities under the Indenture entitled "6 <sup>3</sup>/<sub>4</sub>% Senior Notes due 2032." The Notes shall be in the form of Exhibit A hereto. The Notes shall be guaranteed by the Subsidiary Guarantors as provided in such form and the Indenture. If required, the Notes may bear an appropriate legend regarding original issue discount for federal income tax purposes.

#### ARTICLE TWO

##### **Certain Definitions**

The following terms have the meanings set forth below in this Supplemental Indenture. Capitalized terms used but not defined herein have the meanings ascribed to such terms in the Indenture. To the extent terms defined herein differ from the Indenture the terms defined herein will govern.

"Accounts Receivable Subsidiary." means any wholly-owned Subsidiary of the Company (i) which is formed solely for the purpose of, and which engages in no substantial activities other than activities in connection with, financing accounts receivable of the Company and/or its Restricted Subsidiaries, (ii) which is designated by the Company as an Accounts Receivables Subsidiary pursuant to an Officers' Certificate delivered to the Trustee,

(iii) no portion of Indebtedness or any other obligation (contingent or otherwise) of which is at any time recourse to or obligates the Company or any Restricted Subsidiary in any way, or subjects any property or asset of the Company or any Restricted Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to (1) representations, warranties and covenants (or, any indemnity with respect to such representations, warranties and covenants) entered into in the ordinary course of business in connection with the sale (including a sale in exchange for a promissory note of or Equity Interest in such Accounts Receivable Subsidiary) of accounts receivable to such Accounts Receivable Subsidiary or (2) any Guarantee of any such accounts receivable financing by the Company or any Restricted Subsidiary that is permitted to be incurred pursuant to Section 4.09 and Section 4.11, (iv) with which neither the Company nor any Restricted Subsidiary has any contract, agreement, arrangement or understanding other than contracts, agreements, arrangements and understandings entered into in the ordinary course of business in connection with the sale (including a sale in exchange for a promissory note of or Equity Interest in such Accounts Receivable Subsidiary) of accounts receivable in accordance with Section 4.19 and fees payable in the ordinary course of business in connection with servicing accounts receivable and (v) with respect to which neither the Company nor any Restricted Subsidiary has any obligation (a) to subscribe for additional Equity Interests therein or make any additional capital contribution or similar payment or transfer thereto other than in connection with the sale (including a sale in exchange for a promissory note of or Equity Interest in such Accounts Receivable Subsidiary) of accounts receivable to such Accounts Receivable Subsidiary in accordance with Section 4.19 or (b) to maintain or preserve the solvency, any balance sheet term, financial condition, level of income or results of operations thereof.

“Acquired Disqualified Stock” means, with respect to any specified Person, Disqualified Stock of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, whether or not such Disqualified Stock is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person.

“Acquired Preferred Stock” means, with respect to any specified Person, preferred stock of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, whether or not such preferred stock is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person.

“Affected Covenants” has the meaning set forth in Section 4.08.

“Affiliate Transaction” has the meaning set forth in Section 4.14.

“Asset Sale” means:

(1) the sale, lease, conveyance or other disposition (other than the creation of a Lien) of any assets or rights; *provided* that the sale, conveyance or other disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries taken as a whole will be governed by Article Five and not by the provisions of Section 4.12; and

(2) the issuance of Equity Interests in any of the Company’s Restricted Subsidiaries or the sale by the Company or any Restricted Subsidiary of Equity Interests in any of its Subsidiaries or Joint Ventures.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

(1) any single transaction or series of related transactions for which the Company or its Restricted Subsidiaries receive aggregate consideration of less than \$25.0 million;

(2) a transfer of assets between or among the Company and/or its Restricted Subsidiaries;

(3) an issuance of Equity Interests by a Restricted Subsidiary to the Company or to a Restricted Subsidiary of the Company;

(4) the sale or lease of products, services, accounts receivable, rolling stock, barges, pipeline capacity or chemical products in the ordinary course of business and any sale or other disposition of damaged, worn-out or obsolete assets in the ordinary course of business;

(5) a sale (including a sale in exchange for a promissory note of or Equity Interest in such Accounts Receivable Subsidiary) of accounts receivable and/or related assets to an Accounts Receivable Subsidiary in connection with any Receivables Facility;

(6) the sale or other disposition of cash or Cash Equivalents; or

(7) a Restricted Payment that does not violate Section 4.09 or any Investment.

“Asset Sale Offer” has the meaning set forth in Section 4.12(c).

“Attributable Debt” in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments

during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP; *provided, however*, that if such sale and leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of “Capital Lease Obligation.”

“Authority” has the meaning provided in the Recitals.

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

“Beneficial Owner” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms “Beneficially Owns” and “Beneficially Owned” have a corresponding meaning.

“Board of Directors” means:

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

“Capital Lease Obligation” means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

“Capital Stock” means:

- (1) in the case of a corporation, corporate stock;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Cash Equivalents” means:

(1) United States dollars;

(2) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (*provided* that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than one year from the date of acquisition;

(3) certificates of deposit and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers’ acceptances with maturities not exceeding one year and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of \$500.0 million and a Thomson Bank Watch Rating of “B” or better;

(4) commercial paper having one of the two highest ratings obtainable from Moody’s or S&P and in each case maturing within nine months after the date of acquisition;

(5) investments in any U.S. dollar denominated money market fund as defined by Rule 2a-7 under the Investment Company Act of 1940;

(6) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clauses (2) and (3) above (without regard to the limitation on maturity contained in such clause) and entered into with a financial institution satisfying the criteria described in clause (3) above;

(7) marketable direct obligations issued by any U.S. corporation, state of the United States of America or any political subdivision of any such state or any public

instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition, having a rating of no lower than single A from either S&P or Moody's;

(8) auction rate preferred stocks, whether taxable, tax-exempt or DRD, issued by a domestic or foreign corporation, a domestic or foreign bank, or closed-end municipal or taxable bond fund, that reset periodically through a modified "Dutch" auction, the frequency of auctions of which allows for classification as short term investment, available for sale, at the time of acquisition, having a rating of no lower than triple A from either S&P or Moody's;

(9) floating rate, variable rate and auction rate bonds, whether taxable or tax-exempt, issued by municipalities, states, state agencies, political subdivision of states or any public instrumentality thereof, that reset periodically through a modified "Dutch" auction, the frequency of auctions of which allows for classification as short term investment available for sale thereof and, at the time of acquisition, having a rating of no lower than triple A from either S&P or Moody's; and

(10) investments in bond funds which are triple A rated by either S&P or Moody's which maintain a dollar weighted average portfolio maturity or not more than three years and a dollar weighted average duration not exceeding two years.

"Change of Control" means the occurrence of any of the following:

(1) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d) of the Exchange Act) other than a Principal or a Related Party of a Principal;

(2) the adoption of a plan relating to the liquidation or dissolution of the Company;

(3) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above), other than the Principals and their Related Parties becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company, measured by voting power rather than number of shares, other than in any transaction that complies with clause (4) below;

(4) the Company consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into, the Company, in any such event

pursuant to a transaction in which any of the outstanding Voting Stock of the Company or such other Person is converted into or exchanged for cash, securities or other property, other than any such transaction where the Voting Stock of the Company outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock (other than Disqualified Stock) of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance); or

(5) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors.

“Change of Control Offer” means an offer made by the Borrower Designee (as defined in the Indenture) upon a Change of Control to purchase all or any part (which shall be in an amount equal to an Authorized Denomination) of a Holder’s Notes for a payment in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest on the Notes repurchased. A payment under a Change of Control Offer shall be deemed to have been made to the extent that the Borrower Designee has made a corresponding payment under a Change of Control Offer for the GO Zone Bonds.

“Company” has the meaning provided in the Preamble.

“Consolidated Cash Flow” means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period plus, without duplication:

(1) an amount equal to any extraordinary loss plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with an Asset Sale or other asset disposition, to the extent such losses were deducted in computing such Consolidated Net Income; *plus*

(2) any non-recurring charges relating to any premium or penalty paid, write-off of deferred financing costs or other financial recapitalization charges in connection with redeeming or retiring any Indebtedness prior to its Stated Maturity to the extent such losses were deducted in computing such Consolidated Net Income; *plus*

(3) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period (including any provision for taxes on the Net Income of any Joint Venture that is a pass-through entity for federal income tax purposes, to the extent such taxes are paid or payable by such Person or any of its Restricted Subsidiaries, *provided, however*, that such provision for taxes shall only be equal to such Person’s proportional share in the Joint Venture), to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; *plus*

(4) the Fixed Charges of such Person and its Restricted Subsidiaries for such period, to the extent that such Fixed Charges were deducted in computing such Consolidated Net Income; *plus*

(5) depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period but including any unrealized non-cash losses resulting from foreign currency balance sheet adjustments required by GAAP to the extent such losses were deducted in computing Consolidated Net Income) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; *minus*

(6) other non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business;

in each case, on a consolidated basis and determined in accordance with GAAP.

Notwithstanding the preceding, the provision for taxes based on the income or profits of, and the depreciation and amortization and other non-cash expenses of, a Restricted Subsidiary of the Company will be added to Consolidated Net Income to compute Consolidated Cash Flow of the Company only to the extent that a corresponding amount would be permitted at the date of determination to be distributed as a dividend to the Company by such Restricted Subsidiary without prior governmental approval (that has not been obtained), and without direct or indirect restriction pursuant to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Restricted Subsidiary or its stockholders.

“Consolidated Net Income” means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; *provided* that:

(1) the Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person;

(2) the Net Income of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or

indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders; and

(3) the cumulative effect of a change in accounting principles will be excluded.

“Consolidated Net Tangible Assets” of any Person means the aggregate amount of assets of such Person (less applicable reserves and other properly deductible items) after deducting therefrom (to the extent otherwise included therein) all goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangibles, all as set forth on the books and records of the Person and its Restricted Subsidiaries on a consolidated basis and in accordance with GAAP.

“Consolidated Net Worth” of any Person means the consolidated stockholders’ equity of such Person, determined on a consolidated basis in accordance with GAAP, less (without duplication) amounts attributable to Disqualified Stock of such Person.

“Continuing Directors” means, as of any date of determination, any member of the Board of Directors of the Company who:

(1) was a member of such Board of Directors on the date of the Indenture; or

(2) was nominated for election or elected or appointed to such Board of Directors with the approval of, or whose nomination for election by the stockholders was approved by, a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination, appointment or election.

“Credit Agreement” means the senior secured revolving credit agreement among the Company, the guarantors named therein, Bank of America, N.A., Banc of America Securities LLC and the lenders named therein providing for a revolving credit facility, including any related notes, guarantees, collateral documents, instruments and agreements executed in connection therewith and in each case as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

“Credit Facilities” means, one or more debt facilities (including, without limitation, the Credit Agreement and any Receivable Facility) or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to Accounts Receivable Subsidiaries) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities

to institutional investors) in whole or in part from time to time, whether or not with the same lenders or agents.

“Disqualified Stock” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the Holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the Holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the Holders of the Capital Stock have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.09. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Supplemental Indenture will be the maximum amount that the Company and its Restricted Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock, exclusive of accrued dividends.

“Domestic Assets” means plants, property and equipment of a Domestic Subsidiary.

“Domestic Investment” has the meaning set forth in Section 4.09(b).

“Domestic Subsidiary” means any Restricted Subsidiary of the Company that was formed under the laws of the United States or any state of the United States or the District of Columbia.

“Equity Interests” means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

“Event of Default” has the meaning set forth in Section 6.01.

“Excess Proceeds” has the meaning set forth in Section 4.12(c).

“Existing Indebtedness” means the Indebtedness of the Company and its Subsidiaries (other than Indebtedness under the Credit Agreement) in existence on the date of this Supplemental Indenture, including all reimbursement obligations with respect to letters of credit outstanding as of that date, in each case until such amounts are repaid.

“Fair Market Value” means the price that could be negotiated in an arm’s-length transaction between a willing buyer and a willing seller not involving distress or necessity of either party, determined in good faith by the Board of Directors of the Company (unless otherwise provided in this Supplemental Indenture).

“Fixed Charge Coverage Ratio” means, with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases, redeems, defeases or otherwise discharges any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “Calculation Date”), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase, redemption, defeasance or other discharge of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

- (1) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including any related financing transactions and including increases in ownership of Restricted Subsidiaries, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be given pro forma effect (in accordance with Regulation S-X under the Securities Act) as if they had occurred on the first day of the four-quarter reference period;
- (2) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded;
- (3) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date;

(4) any Person that is a Restricted Subsidiary on the Calculation Date will be deemed to have been a Restricted Subsidiary at all times during such four-quarter period;

(5) any Person that is not a Restricted Subsidiary on the Calculation Date will be deemed not to have been a Restricted Subsidiary at any time during such four-quarter period;

(6) if any Indebtedness bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligation applicable to such Indebtedness if such Hedging Obligation has a remaining term as at the Calculation Date in excess of 12 months); and

(7) interest income reasonably anticipated by such Person to be received during the applicable four-quarter period from cash or Cash Equivalents held by such Person or any Restricted Subsidiary of such Person, which cash or Cash Equivalents exist on the Calculation Date or will exist as a result of the transaction giving rise to the need to calculate the Fixed Charge Coverage Ratio may be added on a pro forma basis to net income for such period.

“Fixed Charges” means, with respect to any specified Person for any period, the sum, without duplication, of:

(1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Debt, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers’ acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations; *plus*

(2) the consolidated interest of such Person and its Restricted Subsidiaries that was capitalized during such period; *plus*

(3) any interest accruing on Indebtedness of another Person that is guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; *plus*

(4) the product of (a) all dividends, whether paid or accrued and whether or not in cash, on any series of preferred stock of such Person or any of its Restricted

Subsidiaries, other than dividends on Equity Interests payable solely in Equity Interests of the Company (other than Disqualified Stock) or to the Company or a Restricted Subsidiary of the Company, times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP.

However, interest payments on Indebtedness of a Joint Venture shall, in each case, not be deemed Fixed Charges of the Company or any Restricted Subsidiary as of any date of determination when such Indebtedness is not considered Indebtedness of the Company or any Restricted Subsidiary.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“General Partner” means a Restricted Subsidiary of the Company or any of its Restricted Subsidiaries that has no assets and conducts no operations other than its ownership of a general partnership interest in a Joint Venture.

“GO Zone Bonds” has the meaning provided in the Recitals.

“GO Zone Indenture” has the meaning provided in the Recitals.

“GO Zone Trustee” has the meaning provided in the Recitals.

“Guarantee” means a guarantee other than by endorsement of negotiable instruments for collection or deposit in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements (other than with respect to the obligations of a Joint Venture, solely by virtue of a Restricted Subsidiary being the General Partner of such Joint Venture if, as of the date of determination, no payment on such Indebtedness has been made by such General Partner of such Joint Venture and such arrangement would not be classified and accounted for, in accordance with GAAP, as a liability on a consolidated balance sheet of the Company), or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

“Hedging Obligations” means, with respect to any specified Person, the obligations of such Person under:

(1) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;

- (2) other agreements or arrangements designed to manage interest rate risk; and
- (3) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates, currency values or commodity prices.

“Holder” means the Person in whose name a Note is registered in the books of the Registrar for the Notes.

“Indebtedness” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

- (1) in respect of borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) in respect of banker’s acceptances;
- (4) representing Capital Lease Obligations or Attributable Debt in respect of sale and leaseback transactions;
- (5) representing the balance deferred and unpaid of the purchase price of any property due more than six months after such property is acquired; or
- (6) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit, Attributable Debt and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term “Indebtedness” includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) (other than a Limited Recourse Stock Pledge) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;
- (2) the principal amount of the Indebtedness, in the case of any other Indebtedness; and

(3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:

- (a) the Fair Market Value of such assets at the date of determination; and
- (b) the amount of the Indebtedness of the other Person.

“Indenture” has the meaning provided in the Preamble.

“Investment Grade” means a rating of (i) Baa3 or better by Moody’s or BBB- or better by S&P (or, if either such entity ceases to rate the notes for reasons outside of the control of the Company, the equivalent investment grade credit rating from any other “nationally recognized statistical rating organization” within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act selected by the Company as a replacement agency) and (ii) the equivalent investment grade credit rating from another “nationally recognized statistical rating organization” within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act (including, for the avoidance of doubt, S&P if the agency referred to in clause (i) is Moody’s, or vice versa).

“Investments” means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commissions, loans, fees, compensation and advances to officers, directors and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. “Investment” excludes trade credit and accounts receivable in the ordinary course of business and reimbursement obligations in respect of letters of credit and tender, bid, performance, government contract, surety and appeal bonds, in each case solely with respect to obligations of the Company or any of its Restricted Subsidiaries. If the Company or any Restricted Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company’s Investments in such Restricted Subsidiary that were not sold or disposed of in an amount determined as provided in Section 4.09(c). The acquisition by the Company or any Restricted Subsidiary of the Company of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in Section 4.09(c). Except as otherwise provided in the Indenture, the amount of an Investment will

be determined at the time the Investment is made and without giving effect to subsequent changes in value.

“Joint Venture” means any joint venture between the Company and/or any Restricted Subsidiary and any other Person, if such joint venture is owned 50% or less by the Company and/or any of its Restricted Subsidiaries.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

“Limited Recourse Stock Pledge” means the pledge of Equity Interests in any Joint Venture or any Unrestricted Subsidiary to secure Non-Recourse Debt of such Joint Venture or Unrestricted Subsidiary, which pledge is made by a Restricted Subsidiary of the Company, the activities of which are limited to making and managing Investments, and owning Equity Interests, in such Joint Venture or Unrestricted Subsidiary, but only for so long as its activities are so limited.

“Loan Agreement” has the meaning provided in the Recitals.

“Moody's” means Moody's Investors Service, Inc.

“Net Income” means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:

(1) any gain or loss, together with any related provision for taxes on such gain or loss realized in connection with: (a) any Asset Sale or any disposition pursuant to a sale and leaseback transaction; or (b) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries; and

(2) any extraordinary gain or loss or revenue or expense, together with any related provision for taxes on such extraordinary gain or loss or revenue or expense.

“Net Proceeds” means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of (1) the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and

any relocation expenses incurred as a result of the Asset Sale, (2) taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, (3) amounts required to be paid to Holders of minority interests in Restricted Subsidiaries or Joint Ventures as a result of such Asset Sale, (4) amounts required to be applied to the repayment of Indebtedness, other than Indebtedness under a Credit Facility, secured by a Lien on the asset or assets that were the subject of such Asset Sale, or which must by the terms of such Lien or by applicable law be repaid out of the proceeds of such Asset Sale, (5) all payments made with respect to liabilities directly associated with the assets which are the subject of the Asset Sale, including, without limitation, trade payables and other accrued liabilities, and (6) any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

“Non-Recourse Debt” means Indebtedness:

(1) as to which neither the Company nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender;

(2) no default with respect to which (including any rights that the Holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any Holder of any other Indebtedness of the Company or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its Stated Maturity; and

(3) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Company or any of its Restricted Subsidiaries, other than the Equity Interests of a Joint Venture that is not a Restricted Subsidiary or of an Unrestricted Subsidiary pledged by the Company or any of its Restricted Subsidiaries as a Limited Recourse Stock Pledge.

“Notes” has the meaning provided in the Recitals.

“Obligations” means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

“Pari Passu Indebtedness” means, in the case of the Notes, any senior Indebtedness of the Company and, in the case of the Guarantees, any senior Indebtedness of the Subsidiary Guarantor thereof, including, in each case, the Public Notes and Indebtedness and other Obligations outstanding under a Credit Facility.

“Paying Agent” means the Trustee or any successor paying agent.

“Payment Default” has the meaning set forth in Section 6.01(5)(A).

“Permitted Business” means the petrochemical, chemicals, and vinyls or plastic fabrications business and any other businesses related, incidental, complementary or ancillary thereto.

“Permitted Debt” has the meaning set forth in Section 4.11(b).

“Permitted Investments” means:

- (1) any Investment in the Company or in a Restricted Subsidiary of the Company;
- (2) any Investment in Cash Equivalents;
- (3) any Investment by the Company or any Restricted Subsidiary of the Company in a Person, if as a result of such Investment:
  - (a) such Person becomes a Restricted Subsidiary of the Company; or
  - (b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company;
- (4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.12;
- (5) any acquisition of assets or Capital Stock solely in exchange for the, or out of the net cash proceeds of a substantially concurrent (but no longer than 45 days) issuance of Equity Interests (other than Disqualified Stock) of the Company;
- (6) any Investments received in settlement, compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Company or any of its Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (B) litigation, arbitration or other disputes with Persons who are not Affiliates;
- (7) Investments represented by Hedging Obligations;

(8) loans or advances to employees made in the ordinary course of business of the Company or the Restricted Subsidiary of the Company in an aggregate principal amount not to exceed \$5.0 million at any one time outstanding;

(9) Investments in an Accounts Receivable Subsidiary that, as conclusively determined by the Board of Directors of the Company, are necessary or advisable to effect a Receivables Facility;

(10) Limited Recourse Stock Pledges;

(11) additional Investments in a Subsidiary of the Company holding an interest in Suzhou Huasu Plastics Co. Ltd. in an aggregate amount not to exceed \$40 million in the aggregate outstanding at any time (after giving effect to any dividends, return of capital and subsequent reduction in the amount of any Investments made pursuant to this clause (11) as a result of the repayment or other disposition thereof in an amount not to exceed the amount of such Investments previously made pursuant to this clause (11));

(12) repurchases of the Notes;

(13) Investments in Joint Ventures or any Persons that, as a result of such an Investment, become Joint Ventures;

(14) repurchases of the GO Zone Bonds issued under the GO Zone Indenture; and

(15) other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (15) that are at the time outstanding not to exceed the greater of (i) \$50.0 million and (ii) 5% of the Consolidated Net Tangible Assets of the Company (after giving effect to any dividends, return of capital and subsequent reduction in the amount of any Investments made pursuant to this clause (15) as a result of the repayment or other disposition thereof, upon designation of an Unrestricted Subsidiary, the fair market value of such Subsidiary to the extent the Investment in such Subsidiary was made pursuant to this clause (15), in an amount not to exceed the amount of such Investments previously made pursuant to this clause (15)).

“Permitted Liens” means:

(1) Liens securing Hedging Obligations related to Indebtedness permitted to be incurred by the terms of the indenture;

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- (2) Liens in favor of the Company or any Subsidiary Guarantor;
- (3) Liens on property of a Person existing at the time such Person becomes a Restricted Subsidiary or is merged with or into or consolidated with the Company or any Restricted Subsidiary of the Company; *provided* that such Liens were in existence prior to the contemplation of such acquisition, merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Company or the Subsidiary or that becomes a Subsidiary;
- (4) Liens on property (including Capital Stock) existing at the time of acquisition of the property by the Company or any Restricted Subsidiary of the Company, provided that such Liens were in existence prior to, and not incurred in contemplation of, such acquisition;
- (5) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by Section 4.11(b)(4) covering only the assets acquired with or financed by such Indebtedness (including during any period Section 4.11 is suspended, as though such Section 4.11 was still in effect);
- (6) Liens existing on the date of this Supplemental Indenture;
- (7) Liens imposed by law, such as carriers', warehousemen's, landlord's and mechanics' Liens, in each case, incurred in the ordinary course of business;
- (8) Liens created for the benefit of (or to secure) the Notes (or Guarantees of the Notes);
- (9) Liens securing reimbursement obligations with respect to commercial letters of credit obtained in the ordinary course of business, consistent with past practices, which encumber documents and other property or assets relating to such letters of credit and products and proceeds thereof;
- (10) Liens incurred or assumed in connection with the issuance of revenue bonds the interest on which is exempt from federal income taxation pursuant to Section 103(b) of the Internal Revenue Code, including, without limitation, liens as a cash collateral account securing existing reimbursement obligations with respect to a letter of credit issued pursuant thereto;
- (11) customary Liens for the fees, costs and expenses of trustees and escrow agents pursuant to any indenture, escrow agreement or similar agreement establishing a trust or escrow arrangement;

(12) Liens on assets of the Company or any Restricted Subsidiary arising as a result of a sale and leaseback transaction with respect to such assets; *provided* that the proceeds from such sale and leaseback transaction are applied to the repayment of Indebtedness or acquisition of assets or the making of capital expenditures pursuant to Section 4.12;

(13) Liens on accounts receivable and related property deemed to arise in connection with any Receivables Facility;

(14) the interest of a lessor or licensor under an operating lease or license under which the Company or any of its Restricted Subsidiaries are lessee, sublessee, or licensee, including protective financing statement filings;

(15) Limited Recourse Stock Pledges;

(16) Liens encumbering customary initial deposits and margin deposits, netting provisions and setoff rights, in each case securing Indebtedness under Hedging Obligations;

(17) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under the indenture; *provided, however*, that:

(a) the new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus improvements and accessions to, such property or proceeds or distributions thereof); and

(b) the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (x) the outstanding principal amount or, if greater, committed amount, of the Permitted Refinancing Indebtedness and (y) an amount necessary to pay any fees and expenses, including premiums, related to such refinancings, refunding, extension, renewal or replacement;

(18) Liens securing Indebtedness incurred pursuant to clause (1) and (12) of the definition of Permitted Debt (including during any period Section 4.11 is suspended, as though such Section 4.11 was still in effect);

(19) Liens securing senior Indebtedness of the Company or any Restricted Subsidiary in an aggregate principal amount at the time of incurrence thereof not to exceed 10% of Tangible Assets;

(20) Liens on cash used to make a defeasance of Indebtedness permitted by the agreements governing such Indebtedness;

(21) Liens securing Indebtedness of Foreign Subsidiaries; and

(22) Liens with respect to obligations that do not exceed the greater of (i) 5.0% of Consolidated Net Tangible Assets and (ii) \$100.0 million at any one time outstanding.

“Permitted Refinancing Indebtedness” means any Indebtedness of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness); *provided* that:

(1) the principal amount (or initial accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount outstanding, or in the case of a revolving line of credit, available (or accreted value, if applicable) of the Indebtedness extended, refinanced, renewed, replaced, defeased or refunded (plus all accrued interest on the Indebtedness and the amount of all expenses and premiums incurred in connection therewith);

(2) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded;

(3) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the Notes or the related Guarantees, such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and is subordinated in right of payment to, the Notes or the Guarantees, as applicable, on subordination terms at least as favorable to the Holders of the Notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; and

(4) such Indebtedness is incurred either by the Company or by the Restricted Subsidiary who is the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded.

“Principals” means the descendants of T.T. Chao, including by adoption, and the spouses of any such individuals.

“Public Equity Offering” means any underwritten public equity offering of common stock of the Company yielding gross proceeds to the issuer (from sources other than a Subsidiary of the Company) of at least \$25.0 million.

“Public Notes” means the \$250,000,000 aggregate principal amount of the Company’s 6-5/8% Senior Notes due 2016 issued under the Indenture, as supplemented by the First Supplemental Indenture dated as of January 13, 2006.

“Receivables Facilities” means one or more receivables financing facilities or arrangements, as amended from time to time, pursuant to which the Company or any of its Restricted Subsidiaries sells (including a sale in exchange for a promissory note of or Equity Interest in an Accounts Receivable Subsidiary) its accounts receivable, related assets and the provision of billing, collection and other services in connection therewith, in each case to an Accounts Receivable Subsidiary.

“Receivables Fees” means distributions or payments made directly or by means of discounts with respect to any participation interests issued or sold in connection with, and other fees paid to a Person that is not the Company or a Restricted Subsidiary in connection with, any Receivables Facility.

“Registrar” means The Bank of New York Trust Company, N.A., or any successor registrar of the Notes.

“Related Party” means:

- (1) any controlling stockholder, 80% (or more) owned Subsidiary, or immediate family member (in the case of an individual) of any Principal; or
- (2) any Person, the beneficiaries, stockholders, partners, owners or Persons beneficially holding a 50% or more controlling interest of which consist of any one or more Principals and/or such other Persons referred to in the immediately preceding clause (1).

“Restricted Investment” means an Investment other than a Permitted Investment.

“Restricted Payments” has the meaning set forth in Section 4.09(a).

“Restricted Subsidiary” of a Person means any Subsidiary of the referent Person which is not an Unrestricted Subsidiary.

“S&P” means Standard & Poor’s Ratings Services.

“Stated Maturity” means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

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

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

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

“Subsidiary Guarantors” means:

(1) each of the Subsidiaries of the Company listed on Schedule A to this Supplemental Indenture; and

(2) any other Subsidiary that executes a Guarantee in accordance with the provisions of this Supplemental Indenture;

and their respective successors and assigns; *provided* that any Person constituting a Subsidiary Guarantor as described above shall cease to constitute a Subsidiary Guarantor when its respective Guarantee is released in accordance with the terms of this Supplemental Indenture.

“Successor” has the meaning set forth in Section 5.01.

“Supplemental Indenture” has the meaning provided in the Preamble.

“Tangible Assets” means the total consolidated assets, less goodwill and intangibles, of the Company and its Restricted Subsidiaries, as determined in accordance with GAAP at the end of the most recent fiscal quarter for which financial statements are available in accordance with Section 4.21.

“Term Loan Facilities” means one or more facilities that make available term loan borrowings.

“Total Assets” means, as of any determination date, the total assets of the Company and its consolidated Subsidiaries, as determined in accordance with GAAP at the end of the most recent fiscal quarter for which financial statements are available in accordance with Section 4.21.

“Trustee” has the meaning provided in the Preamble.

“Unrestricted Subsidiary” means (i) any Accounts Receivable Subsidiary, (ii) unless and until designated a Restricted Subsidiary in accordance with the terms of this Supplemental Indenture, Westlake Trinidad Unlimited, Westlake International Investments Corporation, Westlake International Services Corporation, Suzhou Huasu Plastics Co., Ltd., Westlake Profiles Limited and Westech Building Products Limited, (iii) any Subsidiary of an Unrestricted Subsidiary and (iv) any other Subsidiary of the Company that is designated by the Board of Directors as an Unrestricted Subsidiary pursuant to a Board Resolution, but only to the extent that such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Debt;

(2) is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary of the Company unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;

(3) is a Person with respect to which neither the Company nor any of its Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person’s financial condition or to cause such Person to achieve any specified levels of operating results; and

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of its Restricted Subsidiaries.

Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary will be evidenced to the Trustee by filing with the Trustee a certified copy of the Board Resolution giving effect to such designation and an Officers’ Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.09. If, at any time, any Unrestricted Subsidiary designated after the date of the Indenture would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of the Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.11, the Company will be in default of such Section 4.11. The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation will only be permitted if (1) such Indebtedness is permitted under Section 4.11, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence

following such designation. In the case of any designation by the Company of a Person as an Unrestricted Subsidiary on the first day that such Person is a Subsidiary of the Company in accordance with the terms of the Indenture, such designation shall be deemed to have occurred for all purposes of this Supplemental Indenture simultaneously with, and automatically upon, such Person becoming a Subsidiary of the Company.

“Voting Stock” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

(1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by

(2) the then outstanding principal amount of such Indebtedness.

“Wholly-Owned Restricted Subsidiary” of any specified Person means a Restricted Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors’ qualifying shares) will at the time be owned by such Person or by one or more Wholly-Owned Restricted Subsidiaries of such Person and one or more Wholly-Owned Restricted Subsidiaries of such Person.

## ARTICLE THREE

### Redemption

The following covenants are added to the Indenture for the benefit of Holders of the Notes:

Section 3.12. Redemption Based on Section 3.4 of the GO Zone Indenture.

Except as otherwise provided herein, the Notes shall not be redeemable at the option of the Company; provided, however, that in the event of a redemption of GO Zone Bonds under Section 3.4 of the GO Zone Indenture and as reflected in the GO Zone Bonds set forth in Exhibit A thereto, the Company shall redeem Notes equal in principal amount to the GO Zone Bonds to be redeemed at a Redemption Price equal to the Redemption Price of the GO Zone Bonds to be redeemed, plus accrued interest to the Redemption Date.

ARTICLE FOUR

**Covenants**

The following covenants are added to the Indenture for the benefit of Holders of the Notes:

Section 4.08. Covenant Suspension.

During any period of time that (i) the GO Zone Bonds are rated Investment Grade and (ii) no Default or Event of Default under this Supplemental Indenture shall have occurred and be continuing, the Company and its Restricted Subsidiaries shall no longer be subject to the following sections:

- Section 4.09,
- Section 4.10,
- Section 4.11,
- Section 4.12,
- Section 4.15, and
- clause (4) of Section 5.01(a) (collectively, the "Affected Covenants").

In the event that the Company and its Restricted Subsidiaries are not subject to the Affected Covenants for any period of time as a result of the preceding sentence and, subsequently, the GO Zone Bonds are not rated Investment Grade, then the Company and its Restricted Subsidiaries will thereafter be subject to the Affected Covenants and compliance with respect to Restricted Payments made after the time of a rating withdrawal or downgrade will be calculated in accordance with the provisions of Section 4.09 as if such covenant had been in effect since the date of execution of this Supplemental Indenture.

Section 4.09. Restricted Payments.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly:

(1) declare or pay any dividend or make any other distribution on account of the Company's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) or to the direct or indirect

Holders of the Company's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company or to the Company or a Restricted Subsidiary of the Company);

(2) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Company) any Equity Interests of the Company or any direct or indirect parent of the Company;

(3) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value, any Indebtedness of the Company or any Subsidiary Guarantor that is contractually subordinated to the Notes or any Guarantee (excluding any intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries), except a payment of interest or principal at or after the Stated Maturity of such interest or principal; or

(4) make any Restricted Investment in an Unrestricted Subsidiary

(all such payments and other actions set forth in these clauses (1) through (4) above being collectively referred to as "Restricted Payments"), unless, at the time of and after giving effect to such Restricted Payment:

(i) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment; and

(ii) the Company would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 4.11; and

(iii) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries since the date of this Supplemental Indenture (excluding Restricted Payments permitted by clauses (2), (3), (4), (6), (7), (8), (9), (10), (11), (12) and (13) of Section 4.09(b)), is less than the sum, without duplication, of:

(a) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from October 1, 2003 to the end of the Company's most recently ended fiscal quarter for which financial statements are available in accordance with Section 4.21 at the time of such Restricted

Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit); *plus*

(b) 100% of the aggregate proceeds (including the Fair Market Value of any non-cash consideration) received by the Company since October 1, 2003 as a contribution to its common equity capital or by the Company or any of its Restricted Subsidiaries from the issue or sale of Equity Interests of the Company (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Company or any of its Restricted Subsidiaries that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of the Company), *plus*

(c) to the extent that any Restricted Investment that was made after October 1, 2003 is sold for cash or otherwise liquidated, repaid for cash or otherwise reduced, including by way of dividend, on or before January 13, 2006 (or in the case of any Restricted Investment in any Unrestricted Subsidiary so designated after January 13, 2006, so sold, liquidated, repaid or otherwise reduced on or after January 13, 2006), the lesser of (i) the cash return of capital with respect to such Restricted Investment (less the cost of disposition, if any) and (ii) the initial amount of such Restricted Investment, *plus*

(d) to the extent that any Unrestricted Subsidiary of the Company designated as such after January 13, 2006 is redesignated as a Restricted Subsidiary, the Fair Market Value of the Company's Investment in such Subsidiary as of the date of such redesignation, *plus*

(e) 50% of the net reduction in Investments in Unrestricted Subsidiaries designated as such January 13, 2006 or Joint Ventures resulting from any dividends, repayment of loans or other transfer of assets received by the Company or a Restricted Subsidiary of the Company after October 1, 2003 from any such Unrestricted Subsidiary or a Joint Venture, to the extent that such dividends, repayments or transfers were not otherwise included in Consolidated Net Income of the Company for such period.

(b) So long as no Default has occurred and is continuing or would be caused thereby, the preceding provisions shall not prohibit:

(1) the payment of any dividend within 60 days after the date of declaration of the dividend, if at the date of declaration the dividend payment would have complied with the provisions of this Supplemental Indenture;

(2) the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent issuance or sale (other than to a Subsidiary of the Company) of, Equity Interests of the Company (other than Disqualified Stock) or from the substantially concurrent contribution of common equity capital to the Company; *provided* that the amount of any such net cash proceeds that are utilized for any such redemption, repurchase, retirement, defeasance or other acquisition will be excluded from clause (3)(b) of the preceding paragraph;

(3) the defeasance, redemption, repurchase or other acquisition of Indebtedness of the Company or any Subsidiary Guarantor that is contractually subordinated to the Notes or to any Guarantee with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness;

(4) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary of the Company to the Company or another Restricted Subsidiary, or the purchase, redemption, or other acquisition or retirement of any Equity Interests in a Restricted Subsidiary held by the Company or another Restricted Subsidiary;

(5) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company or any Restricted Subsidiary of the Company held by any current or former officer, director or employee of the Company or any of its Restricted Subsidiaries pursuant to any equity subscription agreement, stock option agreement, shareholders' agreement or similar plan or agreement; *provided* that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed the greater of (i) 0.2% of Consolidated Net Tangible Assets and (ii) \$5.0 million in any twelve-month period;

(6) the repurchase of Equity Interests deemed to occur upon the exercise of stock options to the extent such Equity Interests represent a portion of the exercise price of those stock options;

(7) the declaration and payment of dividends to Holders of any class or series of Disqualified Stock of the Company or any Restricted Subsidiary of the Company issued on or after the date of this Supplemental Indenture in accordance with the Fixed Charge Coverage Ratio test described in Section 4.11;

(8) distributions or payments of Receivables Fees;

(9) the repurchase of any Indebtedness of the Company or any Subsidiary Guarantor that is contractually subordinated to the Notes or to any Guarantee at a purchase price not greater than 101% of the principal amount thereof in the event of (x) a Change of Control pursuant to a provision no more favorable to the holders thereof

than the provision described in Section 4.13 or (y) an Asset Sale (pursuant to a provision no more favorable to the Holders thereof than the provision described in Section 4.12); *provided* that in each case, prior to such repurchase the Company has made a Change of Control Offer or Asset Sale Offer, as applicable, and repurchased all Notes that were validly tendered for payment in connection with such Change of Control Offer or Asset Sale Offer;

(10) the payment of dividends on common stock of the Company at a rate not to exceed \$0.20 per share per quarter (such amount to be appropriately adjusted to reflect any stock split, reverse split, stock dividend or similar transaction made after the date of execution of this Supplemental Indenture so that the aggregate amount of dividends payable after such transaction is the same as the amount payable prior to such transaction);

(11) dividends or distributions on account of the Equity Interests of a Restricted Subsidiary made to its equityholders on either a *pro rata* basis or on a basis more favorable to either the Company or a Restricted Subsidiary of the Company;

(12) Investments in Unrestricted Subsidiaries; *provided* that, to the extent such Investment consists of the direct or indirect transfer or contribution of Domestic Assets (including, without limitation, (i) due to the designation of a Restricted Subsidiary as an Unrestricted Subsidiary in accordance with the terms of this Supplemental Indenture and (ii) the transfer of equity in a Restricted Subsidiary to the extent it and its Restricted Subsidiaries own Domestic Assets) (a "Domestic Investment"), the aggregate Fair Market Value at the time of Investment of all such Domestic Investments outstanding at any one time permitted by this clause (12) shall not exceed 10% of Total Assets (after giving effect to any dividends, return of capital and subsequent reduction in the amount of any Investments made pursuant to this clause (12) as a result of the repayment or other disposition thereof, or upon designation of an Unrestricted Subsidiary as a Restricted Subsidiary, the fair market value of such Subsidiary to the extent the Investment in such Subsidiary was made pursuant to this clause (12), in an amount not to exceed the amount of such Investments previously made pursuant to this clause (12)); and

(13) other Restricted Payments in an aggregate amount not to exceed the greater of (i) 5.0% of Consolidated Net Tangible Assets and (ii) \$100.0 million outstanding at any time.

(c) The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The Fair Market Value of any assets or securities of \$50.0 million or greater that are required to be valued by this

covenant will be determined by the Board of Directors whose resolution with respect thereto will be delivered to the Trustee.

(d) For purposes of this section, "substantially concurrent" shall be deemed to mean within at least 45 days.

Section 4.10. Dividend and Other Payment Restrictions Affecting Subsidiaries.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(1) pay dividends or make any other distributions on its Capital Stock to the Company or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to the Company or any of its Restricted Subsidiaries;

(2) make loans or advances to the Company or any of its Restricted Subsidiaries; or

(3) transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries.

(b) The preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(1) agreements governing Existing Indebtedness and Credit Facilities as in effect on the date of this Supplemental Indenture and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of those agreements; *provided* that the amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the date of this Supplemental Indenture;

(2) this Supplemental Indenture, the Notes and the related Guarantees;

(3) applicable law, rule, regulation or order;

(4) any agreement or instrument governing Indebtedness or Capital Stock of a Person as in effect at the time of the acquisition by the Company or any of its Restricted Subsidiaries of such Person or the properties or assets of such Person (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable

to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Supplemental Indenture to be incurred;

(5) customary non-assignment provisions in contracts and leases entered into in the ordinary course of business;

(6) construction loans and purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property constructed, purchased or leased of the nature described in Section 4.11(b)(4);

(7) any agreement for the sale or other disposition of a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending the sale or other disposition;

(8) Permitted Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(9) Liens securing Indebtedness otherwise permitted to be incurred under the provisions of Section 4.15 that limit the right of the debtor to dispose of the assets subject to such Liens;

(10) any restriction under an agreement governing Indebtedness of a Foreign Subsidiary permitted under Section 4.11;

(11) provisions limiting or prohibiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements entered into with the approval of the Company's Board of Directors, which limitation or prohibition is applicable only to the assets that are the subject of such agreements;

(12) any agreement or instrument governing Indebtedness permitted to be incurred under this Supplemental Indenture, *provided* that the terms and conditions of any such restrictions and encumbrances, taken as a whole, are not materially more restrictive than those contained in this Supplemental Indenture, taken as a whole; and

(13) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business.

(c) For purposes of determining compliance with this Section 4.10, in the event that a restriction meets the criteria of more than one of the categories of permitted restrictions described in clauses (1) through (13) above, the Company will be permitted to classify such restriction on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.10.

Section 4.11. Incurrence of Indebtedness and Issuance of Preferred Stock.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and the Company will not issue any Disqualified Stock and will not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; *provided, however*, that the Company may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock and the Restricted Subsidiaries may incur Indebtedness or issue preferred stock, if the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which financial statements are available in accordance with Section 4.21 would have been at least 2.0 to 1, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom and, in the case of Acquired Debt, giving pro forma effect to the applicable transaction related thereto), as if the additional Indebtedness had been incurred (and such transaction had occurred) or the preferred stock or Disqualified Stock had been issued, as the case may be, at the beginning of such four-quarter period.

(b) Section 4.11(a) will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "Permitted Debt"):

(1) the incurrence by the Company or any Restricted Subsidiary of Indebtedness and letters of credit under one or more Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (1) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company and its Subsidiaries thereunder) not to exceed the greater of (i) 30.0% of Consolidated Net Tangible Assets or (ii) \$600.0 million;

(2) the incurrence by the Company and its Restricted Subsidiaries of the Existing Indebtedness;

(3) the incurrence by the Company and the Subsidiary Guarantors of Indebtedness represented by the Notes and the related Guarantees to be issued pursuant to this Supplemental Indenture;

(4) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of design, construction, installation or improvement of property, plant or equipment used or usable in a Permitted Business, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (4), not to exceed the greater of (i) 1.0% of Consolidated Net Tangible Assets and (ii) \$20.0 million at any time outstanding;

(5) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to extend, refund, refinance, renew, defease or replace Indebtedness (other than intercompany Indebtedness) that was permitted by this Supplemental Indenture to be incurred under Section 4.11(a) or clause (2), (3), (4), (5), (16) or (17) of this Section 4.11(b);

(6) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; *provided, however*, that:

(A) if the Company or any Subsidiary Guarantor is the obligor on such Indebtedness and the payee is not the Company or a Subsidiary Guarantor, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the Notes, in the case of the Company, or the Guarantee, in the case of a Subsidiary Guarantor; and

(B) (i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary of the Company will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);

(7) the issuance by any of the Company's Restricted Subsidiaries to the Company or to any of its Restricted Subsidiaries of shares of preferred stock; *provided, however*, that:

(A) any subsequent issuance or transfer of Equity Interests that results in any such preferred stock being held by a Person other than the Company or a Restricted Subsidiary of the Company; and

(B) any sale or other transfer of any such preferred stock to a Person that is not either the Company or a Restricted Subsidiary of the Company; will be deemed, in each case, to constitute an issuance of such preferred stock by such Restricted Subsidiary that was not permitted by this clause (7);

(8) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations in the ordinary course of business and not for speculative purposes;

(9) the guarantee by the Company or any of its Restricted Subsidiaries of Indebtedness of the Company or a Restricted Subsidiary of the Company that was permitted to be incurred by another provision of this Section 4.11; *provided* that if the Indebtedness being guaranteed is subordinated to or *pari passu* with the Notes, then the guarantee shall be subordinated to the same extent as the Indebtedness guaranteed;

(10) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness in respect of workers' compensation claims; self-insurance or similar obligations; the financing of insurance premiums; bankers' acceptances; performance, appeal, bid completion, guarantee and surety bonds; or similar requirements (and, in all cases, letters of credit in respect thereof) in the ordinary course of business;

(11) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five Business Days;

(12) the incurrence by Foreign Subsidiaries of Indebtedness in an aggregate principal amount at any time outstanding pursuant to this clause (12), including all Permitted Refinancing Indebtedness incurred to refund, refinance, defease, renew, extend or replace Indebtedness incurred pursuant to this clause (12), not to exceed the greater of (i) 5.0% of Consolidated Net Tangible Assets and (ii) \$100.0 million;

(13) the incurrence by the Company or a Restricted Subsidiary of Indebtedness arising from agreements of the Company or such Restricted Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred in connection with the disposition of any business, assets or subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or subsidiary for the purpose of financing such acquisition; *provided* that the maximum aggregate liability in respect of all such Indebtedness shall at no time exceed the gross proceeds actually received by the Company or such Restricted Subsidiary in connection with such disposition;

(14) the incurrence by the Company or a Restricted Subsidiary of Indebtedness consisting of take-or-pay obligations contained in supply agreements entered into in the ordinary course of business;

(15) the incurrence by the Company of Indebtedness to any of its Subsidiaries incurred in connection with the purchase of accounts receivable and related assets by the Company from any such Subsidiary which assets are subsequently conveyed by the Company in connection with a Receivable Facility; and

(16) the incurrence by the Company or any of its Restricted Subsidiaries of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to extend, refund, refinance, renew, defease or replace any Indebtedness incurred pursuant to this clause (16), and the issuance by the Company of any Disqualified Stock and by any Restricted Subsidiary of any additional preferred stock, not to exceed the greater of (i) 5.0% of Consolidated Net Tangible Assets and (ii) \$100.0 million; and

(17) the incurrence or issuance, as the case may be, by the Company or any Restricted Subsidiary of Acquired Debt, Acquired Preferred Stock or Acquired Disqualified Stock; provided that immediately after giving effect to such incurrence or issuance, as the case may be, (i) the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which financial statements are available in accordance with Section 1.13 preceding the date of such incurrence or issuance, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom) as if such Acquired Debt, Acquired Preferred Stock or Acquired Disqualified Stock had been incurred or issued at the beginning of such four-quarter period, would be (x) at least 2.0 to 1 or (y) equal to or greater than it would have been immediately preceding such incurrence or (ii) the Consolidated Net Worth of the Company would be greater than the Consolidated Net Worth of the Company immediately prior to such transaction.

(c) The Company shall not incur, and shall not permit any Subsidiary Guarantor to incur, any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Pari Passu Indebtedness of the Company or such Subsidiary Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the Notes and the applicable Guarantee on substantially identical terms; *provided, however*, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Company solely by virtue of being unsecured or by virtue of being secured on a first or junior Lien basis.

(d) For purposes of determining compliance with this Section 4.11, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (17) of Section 4.11(b), or is entitled to be incurred pursuant to Section 4.11(a), the Company will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.11. Indebtedness under Credit Facilities outstanding on the date on which Notes are first issued and authenticated under this Supplemental Indenture will initially be deemed to have been incurred on such date in reliance on the exception provided by clause (1) of the definition of Permitted Debt. The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this Section 4.11; *provided*, in each such case, that the amount thereof is included in Fixed Charges of the Company as accrued. Notwithstanding any other provision of this Section 4.11, the maximum amount of Indebtedness that the Company or any Restricted Subsidiary may incur pursuant to this Section 4.11 shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

Section 4.12. Asset Sales.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(1) the Company or the Restricted Subsidiary, as the case may be, receives consideration at the time of the Asset Sale at least equal to the Fair Market Value (as determined by the Company's Board of Directors and evidenced by a resolution of the Board of Directors set forth in an Officers' Certificate delivered to the Trustee as to Asset Sales having a Fair Market Value of \$50.0 million or greater) of the assets or Equity Interests issued or sold or otherwise disposed of; and

(2) at least 75% of the consideration received in the Asset Sale by the Company or such Restricted Subsidiary is in the form of cash or Cash Equivalents, publicly traded equity securities of a Person with a market capitalization (not held by Affiliates of such Person) of at least \$500 million or a controlling interest in, or long-term assets used or useful in, a business engaged in a Permitted Business. For purposes of this provision, each of the following will also be deemed to be cash:

(A) any liabilities, as shown on its most recent balance sheet, of the Company or such Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes or any Guarantee)

that are assumed by the transferee of any such assets pursuant to a customary novation agreement that releases the Company or such Restricted Subsidiary from further liability;

(B) any securities, notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee that are promptly, subject to ordinary settlement periods, converted or monetized by the Company or such Restricted Subsidiary into cash, to the extent of the cash received in that conversion or monetization; and

(C) any Capital Stock or assets of the kind referred to in clause (2) or (4) of Section 4.12(b).

(b) Within 360 days after the receipt of any Net Proceeds from an Asset Sale, the Company or the applicable Restricted Subsidiary, as the case may be, may apply those Net Proceeds, at its option, to any one or more of the following:

(1) to repay Indebtedness and other Obligations of the Company and its Restricted Subsidiaries;

(2) to acquire all or substantially all of the assets of, or any Capital Stock of, any Person or division conducting a Permitted Business, if, in the case of any such acquisition of Capital Stock and after giving effect thereto, such Person will be a Restricted Subsidiary of the Company (or enter into a binding commitment for any such acquisition); *provided* that such binding commitment shall be treated as a permitted application of Net Proceeds from the date of such commitment until and only until the earlier of (x) the date on which such acquisition is consummated and (y) the 180th day following the expiration of the aforementioned 360-day period. If the acquisition or expenditure contemplated by such binding commitment is not consummated on or before such 180th day and the Company or such Restricted Subsidiary shall not have applied such Net Proceeds pursuant to clause (1), (3) or (4) of this Section 4.12(b) on or before such 180th day, such commitment shall be deemed not to have been a permitted application of Net Proceeds;

(3) to make a capital expenditure; or

(4) to acquire other assets that are not classified as current assets under GAAP and that are used or useful in a Permitted Business;

*provided, however*, that to the extent that the Asset Sale consists, directly or indirectly, of Domestic Assets, in order to qualify under any of the foregoing clauses (1) through (4) of this Section 4.12(b), the Company must apply such proceeds to acquire additional Domestic Assets, acquire assets located in the United States or a Person described in Section 4.12(b)(2)

which will become a Domestic Subsidiary at the time it becomes a Restricted Subsidiary pursuant thereto, make domestic capital expenditures or repay Indebtedness that is an obligation of the Company or a Subsidiary Guarantor.

(c) Pending the final application of any Net Proceeds, the Company may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by this Supplemental Indenture. Any Net Proceeds from Asset Sales that are not applied or invested as provided in Section 4.12(b) will constitute "Excess Proceeds." On the 361st day after the Asset Sale (or, at the Company's option, any earlier date), if the aggregate amount of Excess Proceeds exceeds \$25.0 million, the Company will make an Asset Sale Offer to all Holders of the GO Zone Bonds and to all holders of other Pari Passu Indebtedness (collectively, an "Asset Sale Offer") in respect of which an offer to purchase is also required to purchase the maximum principal amount of GO Zone Bonds and such other Pari Passu Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of principal amount plus accrued and unpaid interest to the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use those Excess Proceeds for any purpose not otherwise prohibited by this Supplemental Indenture. If the aggregate principal amount of GO Zone Bonds and other Pari Passu Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee will select the GO Zone Bonds and such other Pari Passu Indebtedness to be purchased on a pro rata basis. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

(d) To the extent that the provisions of any securities laws or regulations conflict with the Change of Control or Asset Sale provisions of this Supplemental Indenture, the Company shall comply with the applicable securities laws and regulations and the Company will not be deemed to have breached its obligations under the Change of Control or Asset Sale provisions of this Supplemental Indenture by virtue of such conflict.

(e) Notwithstanding the provisions described in Sections 4.12(a), (b), (c) and (d) (other than the proviso to Section 4.12(b)), the Company and its Restricted Subsidiaries may consummate an Asset Sale without complying with such provisions if (i) at least 80% of the consideration for such Asset Sale is in the form of assets used or useful in a Permitted Business and (ii) such Asset Sale is for at least Fair Market Value.

Section 4.13. **Change of Control.** In respect of a Change of Control, the GO Zone Indenture shall provide as follows (capitalized terms used herein have the meanings set forth in the GO Zone Indenture):

“(a) If a Change of Control occurs, each Bondholder shall have the right to require the Borrower, who may designate a third party for this purpose (in either case, the **“Borrower Designee”**), to repurchase all or any part (which shall be in an amount equal to an Authorized Denomination) of that Bondholder’s Bonds pursuant to an offer (the **“Change of Control Offer”**) on the terms set forth in this Indenture. In the Change of Control Offer, the Borrower Designee will offer a payment in cash equal to 101% of the aggregate principal amount of Bonds repurchased plus accrued and unpaid interest on the Bonds repurchased, to the date of purchase, subject to the rights of Bondholders on the relevant record date to receive interest due on the relevant Interest Payment Date (such payment, a **“Change of Control Payment”**). Within 30 days following any Change of Control, at the direction of the Borrower Designee, the Trustee will mail a notice to each Bondholder describing the transaction or transactions that constitute the Change of Control and offering to repurchase Bonds on the date specified in the notice (such date, the **“Change of Control Payment Date”**), which date will be no earlier than 30 days and no later than 60 days from the date such notice is mailed, pursuant to the procedures required by this Indenture and described in such notice.

(b) On the Change of Control Payment Date, the Borrower Designee shall, to the extent lawful:

(i) accept for payment all Bonds or portions of Bonds properly tendered pursuant to the Change of Control Offer;

(ii) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Bonds or portions of Bonds properly tendered; and

(iii) deliver or cause to be delivered to the Trustee the Bonds properly accepted together with an Officers’ Certificate stating the aggregate principal amount of Bonds or portions of Bonds being purchased by the Borrower Designee.

(c) The Paying Agent shall promptly pay to each Bondholder of Bonds properly tendered the Change of Control Payment for such Bonds, and the Trustee shall promptly authenticate and mail (or cause to be transferred by book entry) to each Bondholder a new Bond equal in principal amount to any unpurchased portion of the Bonds surrendered, if any; provided

that each new Bond will be in a principal amount equal to an Authorized Denomination.

(d) Section (a) and Section (b) will be applicable whether or not any other provisions of this Indenture are applicable to the transaction.

(e) The Borrower Designee shall not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Borrower Designee and purchases all Bonds properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given pursuant to this Indenture unless and until there is a default in payment of the applicable Redemption Price.”

Section 4.14. Transactions with Affiliates.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each, an “Affiliate Transaction”), unless:

(1) the Affiliate Transaction is on terms that are no less favorable to the Company or the relevant Restricted Subsidiary than those that might reasonably have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person; and

(2) the Company delivers to the Trustee:

(A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$10.0 million, a resolution of the Board of Directors set forth in an Officers’ Certificate certifying that such Affiliate Transaction complies with this covenant and such Affiliate Transaction been approved by a majority of the members of the Board of Directors; and

(B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$50.0 million, (i) a Board Resolution certifying that such Affiliate Transaction complies with clause (1) above and that such Affiliate Transaction has been approved by

a majority of the disinterested members of the Board of Directors, if any, or if there are no such disinterested members, then (ii)(x) an opinion as to the fairness to the Company or such Restricted Subsidiary of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing or (y) with respect to assets classified, in accordance with GAAP, as property, plant or equipment, a written appraisal from a nationally recognized appraiser showing the assets have a Fair Market Value of not less than the consideration paid (*provided* that if the Fair Market Value determined by such appraiser is a range of values or otherwise inexact, the Board of Directors shall determine the exact Fair Market Value within such range).

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 4.14(a):

(1) any fees, compensation and other payments paid to any officer or employee pursuant to any employment agreement, employee or director benefit plan, officer and director indemnification agreement or any similar arrangement entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business;

(2) transactions between or among the Company and/or its Restricted Subsidiaries;

(3) transactions with a Person (other than an Unrestricted Subsidiary of the Company) that is an Affiliate of the Company solely because the Company owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;

(4) payment of reasonable directors' fees to Persons who are not otherwise Affiliates of the Company;

(5) any issuance of Equity Interests (other than Disqualified Stock) of the Company to Affiliates of the Company;

(6) Restricted Payments that do not violate the provisions of Section 4.09;

(7) loans or advances to employees in the ordinary course of business not to exceed \$10.0 million in the aggregate at any one time outstanding;

(8) sales (including a sale in exchange for a promissory note or Equity Interest in such Accounts Receivable Subsidiary) of accounts receivable, related assets and the provision of billing, collection and other services in connection therewith, in

each case, to an Accounts Receivable Subsidiary in connection with any Receivables Facility;

(9) transactions pursuant to any contract or agreement in effect on the Issue Date, as the same may be amended, modified, extended or replaced from time to time, so long as any such contract or agreement as so amended, modified, extended or replaced is, taken as a whole, not materially less favorable to the Company and its Restricted Subsidiaries than under those agreements in effect on the Issue Date;

(10) any transaction or series of transactions between the Company or any Restricted Subsidiary and any of their Joint Ventures or any Unrestricted Subsidiary, *provided* that (a) such Affiliate Transaction complies with clause (1) of the initial paragraph above, and (b) with respect to any such Affiliate Transaction involving aggregate consideration in excess of the greater of (i) 0.5% of Consolidated Net Tangible Assets and (ii) \$10.0 million, such Affiliate Transaction has been approved by the Board of Directors;

(11) transactions between the Company or its Restricted Subsidiaries and any Person who becomes an Unrestricted Subsidiary or Joint Venture pursuant to agreements entered into before, and not in contemplation of, the consummation of any such transaction;

(12) Permitted Investments;

(13) transactions entered into by a Person prior to the time such Person becomes a Subsidiary or is merged or consolidated into the Company or a Subsidiary (provided such transaction is not entered into in contemplation of such event); and

(14) transactions with any customer, client, supplier, distributor or any other purchaser or seller of goods or services (including, without limitation, with any Unrestricted Subsidiary), in each case in the ordinary course of business and otherwise in compliance with the terms of this Supplemental Indenture, which when taken together with other transactions with the same Person are, in the reasonable determination of the Board of Directors or senior management of the Company, fair to the Company and its Restricted Subsidiaries or on terms not less favorable than might have been obtained in a comparable transaction at such time on an arm's length basis from a person who is not an Affiliate.

#### Section 4.15. Liens.

The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien, except Permitted Liens, to secure Indebtedness of any kind on any asset now owned or hereafter acquired,

unless all payments due under this Supplemental Indenture and the Notes are secured on an equal and ratable basis with the obligations so secured (or, if such obligations are subordinated by their terms to the Notes or the related Guarantees, prior to the obligations so secured) until such time as such obligations are no longer secured by a Lien.

Section 4.16. Additional Guarantees.

If, after the date of this Supplemental Indenture, any Domestic Subsidiary of the Company that is not already a Subsidiary Guarantor (including, without limitation, any Domestic Subsidiary acquired or created after the date of this Supplemental Indenture) guarantees any other Indebtedness in excess of \$5 million of either of the Company or a Subsidiary Guarantor, then in either case that Subsidiary will become a Subsidiary Guarantor by executing a supplemental indenture and delivering it to the Trustee within 15 Business Days of the date on which it guaranteed or incurred such Indebtedness, as the case may be. Notwithstanding the preceding, any guarantee of a Domestic Subsidiary that was incurred pursuant to this Section 4.16 as a result of a guarantee of any other Indebtedness in excess of \$5 million shall provide by its terms that it shall be automatically and unconditionally released upon the release or discharge of the guarantee that resulted in the creation of such Domestic Subsidiary's Guarantee, except a discharge or release by, or as a result of payment under, such Guarantee.

Section 4.17. Designation of Restricted and Unrestricted Subsidiaries.

The Board of Directors may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary designated as Unrestricted will be deemed to be an Investment made as of the time of the designation and, to the extent not otherwise permitted by Section 4.09(b) or under one or more clauses of the definition of Permitted Investments, as determined by the Company, will reduce the amount available for Restricted Payments under Section 4.09. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Board of Directors may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if that redesignation would not cause a Default. If a Restricted Subsidiary that is a Subsidiary Guarantor is designated an Unrestricted Subsidiary in accordance with the terms of this covenant, such Guarantee will be released.

Section 4.18. Sale and Leaseback Transactions.

The Company will not, and will not permit any of its Restricted Subsidiaries to, enter into any sale and leaseback transaction; *provided* that the Company or any Restricted Subsidiary may enter into a sale and leaseback transaction if:

(1) the Company or that Restricted Subsidiary, as applicable, could have (a) incurred Indebtedness in an amount equal to the Attributable Debt relating to such sale and leaseback transaction under the Fixed Charge Coverage Ratio test in Section 4.11(a) and (b) incurred a Lien to secure such Indebtedness pursuant to Section 4.15;

(2) the gross cash proceeds of that sale and leaseback transaction are at least equal to the Fair Market Value, as determined in good faith by the Board of Directors and set forth in an Officers' Certificate delivered to the Trustee, of the property that is the subject of that sale and leaseback transaction; and

(3) the transfer of assets in that sale and leaseback transaction is permitted by, and the Company applies the proceeds of such transaction in compliance with, Section 4.12.

Section 4.19. Accounts Receivable Facilities.

Notwithstanding any other provisions of the Indenture relating to the Notes, the Company or any of its Restricted Subsidiaries may sell (including a sale in exchange for a promissory note of or Equity Interest in such Accounts Receivable Subsidiary) at any time and from time to time, accounts receivable and related assets to any Accounts Receivable Subsidiary; *provided* that the aggregate consideration received in each such sale is at least equal to the aggregate Fair Market Value of the receivables sold.

Section 4.20. Payments for Consent.

The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of Notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Supplemental Indenture or the Notes unless such consideration is offered to be paid or agreed to be paid to all Holders of the Notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

Section 4.21. Other Reports

(a) The Company will file with the SEC (unless the SEC will not accept such a filing):

(1) all quarterly and annual reports required to be filed with the SEC on Forms 10-Q and 10-K; and

(2) all current reports required to be filed with the SEC on Form 8-K,

for public availability within the time periods specified in the rules and regulations applicable to such reports.

(b) If, at any time the Company is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Company will nevertheless continue filing the reports specified in Section 4.21(a) with the SEC within the time periods specified in Section 4.21(a) unless the SEC will not accept such a filing. The Company agrees that it will not take any action for the purpose of causing the SEC not to accept any such filings. If the SEC will not accept the Company's filings for any reason, the Company will post the reports referred to in Section 4.21(a) on its website within the time periods that would apply if the Company were required to file those reports with the SEC.

## ARTICLE FIVE

### Successors

Section 5.01 of the Indenture is replaced in its entirety with the following:

Section 5.01. Limitations on Mergers, Consolidations and Sales of Assets.

(a) The Company shall not, directly or indirectly: (x) consolidate or merge with or into another Person (whether or not the Company is the surviving corporation); or (y) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(1) either: (x) the Company is the surviving or continuing Person; or (y) the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, conveyance or other disposition has been made is a Person organized or existing under the laws of the United States, any state of the United States or the District of Columbia;

(2) the Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of the Company under the Notes and this Indenture pursuant to agreements reasonably satisfactory to the Trustee;

(3) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(4) the Company or the Person formed by or surviving any such consolidation or merger (if other than Company), or to which such sale, assignment, transfer, conveyance or other disposition has been made will, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, (i) be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the test set forth in Section 4.11(a), (ii) have a Fixed Charge Coverage Ratio that is not less than the Fixed Charge Coverage Ratio of the Company immediately prior to such transaction or (iii) have Consolidated Net Worth immediately after the transaction equal to or greater than the Consolidated Net Worth of the Company immediately preceding the transaction.

(b) In addition, Company may not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person.

(c) This Article Five will not apply to:

(A) a merger or consolidation of the Company with an Affiliate for the purpose of reincorporating or reorganizing Company in another jurisdiction;

(B) a merger or consolidation of the Company with a Wholly-Owned Restricted Subsidiary; *provided* that, in connection with any such merger or consolidation, no consideration, other than Equity Interests (other than Disqualified Stock) in the surviving or continuing Person or Company, shall be issued or distributed to the holders of Equity Interests of the Company; and

(C) any sale, transfer, assignment, conveyance or other disposition of assets between or among the Company and its Restricted Subsidiaries.

## ARTICLE SIX

### Defaults and Remedies

#### Section 6.01. Events of Default.

The Events of Default in Section 6.01 of the Indenture are replaced with the following, which shall be the Events of Default under the Indenture with respect to the Notes:

(1) the failure by the Company to pay interest on any Note when the same becomes due and payable and the continuance of any such failure for a period of 30 days;

(2) the failure by the Company to pay the principal or premium of any Note when the same becomes due and payable at maturity, upon acceleration or otherwise;

(3) the failure by the Company or any Restricted Subsidiary to comply with Section 4.12, Section 4.13 or Article Five of this Supplemental Indenture;

(4) the Company or any Subsidiary Guarantor fails to comply with any of its other covenants or agreements in, or provisions of, the Notes or this Supplemental Indenture or the Indenture (other than an agreement, covenant or provision that has expressly been included in the Indenture solely for the benefit of one or more series of Securities other than the Notes) which shall not have been remedied within the specified period after written notice, as specified in the last paragraph of Section 6.01 of the Indenture;

(5) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Significant Subsidiaries (or the payment of which is guaranteed by the Company or any of its Significant Subsidiaries) whether such Indebtedness or guarantee now exists, or is created after the date of this Supplemental Indenture, if that default:

(A) is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "Payment Default"); or

(B) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$40.0 million or more and has not been discharged in full or such acceleration has not been rescinded or annulled within 30 days of such maturity or acceleration;

(6) failure by the Company or any of its Significant Subsidiaries to pay or otherwise discharge or stay final judgments aggregating in excess of \$40.0 million, which are not covered by indemnities or third party insurance as to which the Person

giving such indemnity or such insurer has not disclaimed coverage, for a period of 60 days after such judgments become final and non-appealable;

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

- (A) commences a voluntary case,
- (B) consents to the entry of an order for relief against it in an involuntary case,
- (C) consents to the appointment of a Bankruptcy Custodian of it or for all or substantially all of its property, or
- (D) makes a general assignment for the benefit of its creditors;

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

- (A) is for relief against the Company or any Restricted Subsidiary that is a Significant Subsidiary as debtor in an involuntary case,
- (B) appoints a Bankruptcy Custodian of the Company or any Restricted Subsidiary that is a Significant Subsidiary or a Bankruptcy Custodian for all or substantially all of the property of the Company or any Restricted Subsidiary that is a Significant Subsidiary, or
- (C) orders the liquidation of the Company or any Restricted Subsidiary that is a Significant Subsidiary; or

(9) except as permitted by this Supplemental Indenture, any Guarantee of the Notes pursuant to the Indenture ceases to be in full force and effect (other than in accordance with the terms of such Guarantee and the Indenture) or is declared null and void in a judicial proceeding or any Subsidiary Guarantor denies or disaffirms its obligations under the Indenture or its Guarantee (other than by reason of release of a Subsidiary Guarantor from its Guarantee in accordance with the terms of the Indenture and the Guarantee).

Section 6.02. Acceleration.

Section 6.02 of the Indenture is replaced by the following with respect to the Notes:

If an Event of Default with respect to the Notes (other than an Event of Default specified in clause (7) or (8) of Section 6.01) occurs and is continuing, the Trustee by notice to the Company and the Subsidiary Guarantors, or the Holders of at least 25% in principal amount of the then outstanding Notes (or, in the case of an Event of Default described in clause (4) of Section 6.01, if outstanding Securities of other series are affected by such Event of Default, then at least 25% in principal amount of the then outstanding Securities so affected) by notice to the Company, the Subsidiary Guarantors and the Trustee, may declare the principal of and all accrued and unpaid interest on all then outstanding Notes or all series of Securities, as the case may be, to be due and payable. Upon any such declaration, the amounts due and payable on the Notes shall be due and payable immediately. If an Event of Default specified in clause (7) or (8) of Section 6.01 hereof occurs, such amounts shall *ipso facto* become and be immediately due and payable without any declaration, notice or other act on the part of the Trustee or any Holder. The Holders of a majority in principal amount of the then outstanding Securities of the series affected by such Event of Default or all series so affected, as the case may be, by written notice to the Trustee may rescind an acceleration and its consequences (other than nonpayment of principal of or premium or interest on or any Additional Amounts with respect to the Securities) if (i) the rescission would not conflict with any judgment or decree, (ii) all existing Events of Default with respect to the Securities of that series (or of all series, as the case may be) have been cured or waived, except nonpayment of principal, premium, interest or any Additional Amounts that have become due solely because of the acceleration and (iii) the Trustee has been paid any amounts due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07.

## ARTICLE SEVEN

### **Miscellaneous**

#### Section 7.01. Governing Law.

The laws of the State of New York shall govern this Supplemental Indenture, the Notes and the related Guarantees.

#### Section 7.02. No Adverse Interpretation of Other Agreements.

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

Section 7.03. Successors and Assigns; Transfer Restrictions.

All covenants and agreements of the Company and each of the Subsidiary Guarantors in this Supplemental Indenture and the Notes shall bind its successors and assigns. All agreements of the Trustee in this Supplemental Indenture shall bind its successors and assigns. The Notes issued under this Supplemental Indenture shall not be transferable except as required to effect an assignment thereof to a successor or an assign of the Holder hereof.

Section 7.04. Duplicate Originals.

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

Section 7.05. Severability.

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

Section 7.06. Amendments Without Consent of Holders.

Section 9.01 of the Indenture is supplemented with the addition of the following with respect to the Notes:

(12) to confirm as further assurance any mortgage or pledge of additional property, revenues, securities or funds;

(13) to provide any other modifications which, in the sole judgment of the Trustee, are not prejudicial to the interests of the holder of the Notes; or

(14) to conform the covenants and provisions of the Company contained herein to any different financial statement presentation required by the Financial Accounting Standard Board which is different than the presentation required as of the date of issuance of the Notes, so long as the effect of such conformed covenants and provisions is substantially identical to the effect of the covenants and provisions as in effect on the date of issuance of the Notes.

Section 7.07. Release of Subsidiary Guarantors from Guarantee.

Section 10.04 of the Indenture is replaced with the following in its entirety with respect to the Notes:

(a) Notwithstanding any other provisions of this Indenture, the Guarantee of any Subsidiary Guarantor may be released upon the terms and subject to the conditions set forth in this Section 10.04. Provided that no Default shall have occurred and shall be continuing under this Indenture, any Guarantee incurred by a Subsidiary Guarantor pursuant to this Article X shall be unconditionally released and discharged

(i) automatically:

- (1) upon any sale or other disposition of all or substantially all of the assets of that Subsidiary Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary of the Company, if the sale or other disposition does not violate Section 4.12;
- (2) upon any sale or other disposition of all of the Capital Stock of a Subsidiary Guarantor to a Person that is not (either before or after giving effect to such transaction) the Company or a Subsidiary of the Company, if the sale or other disposition does not violate Section 4.12;
- (3) if the Company designates any Restricted Subsidiary that is a Subsidiary Guarantor to be an Unrestricted Subsidiary in accordance with the applicable provisions of this Supplemental Indenture;
- (4) upon legal defeasance or satisfaction and discharge of the Notes as provided in Article Eight; or
- (5) at such time as such Guarantor ceases to guarantee any other Indebtedness of the Company or a Guarantor in excess of \$5 million;

or

(ii) following delivery of a written notice of such release or discharge by the Company to the Trustee, upon the release or discharge of all guarantees by such Subsidiary Guarantor of any Debt of the Company other than obligations arising under the Indenture and any Securities issued thereunder, except a discharge or release by or as a result of payment under such guarantees.

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

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the benefits of such Guarantee as provided in this Indenture, subject to the limitations of Section 10.03.

SIGNATURES

IN WITNESS WHEREOF, the parties have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

**WESTLAKE CHEMICAL CORPORATION**

By:     /s/ Albert Chao    

Name: Albert Chao

Title: President

**SUBSIDIARY GUARANTORS:**

GVGP, Inc.  
North American Bristol Corporation  
Westlake Chemical Holdings, Inc.  
Westlake Chemical Investments, Inc.  
Westlake Ethylene Pipeline Corporation  
Westlake Longview Corporation  
Westlake Management Services, Inc.  
Westlake NG 1 Corporation  
Westlake Olefins Corporation  
Westlake Petrochemicals LP,  
    By Westlake Chemical Investments, Inc.,  
    its General Partner  
Westlake Polymers LP,  
    By Westlake Chemical Investments, Inc.,  
    its General Partner  
Westlake PVC Corporation  
Westlake Resources Corporation  
Westlake Styrene LP,  
    By Westlake Chemical Holdings, Inc.,  
    its General Partner  
Westlake Supply and Trading Company  
Westlake Vinyl Corporation  
Westlake Vinyls Company LP,  
    By GVGP, Inc., its General Partner  
Westlake Vinyls, Inc.  
WPT LP,  
    By Westlake Chemical Holdings, Inc.  
    its General Partner

By: /s/ Albert Chao

Name: Albert Chao

Title: President

Geismar Holdings, Inc.  
Westlake Chemical Manufacturing, Inc.  
Westlake Chemical Products, Inc.  
Westlake Development Corporation

By: /s/ R. Michael Looney

Name: R. Michael Looney

Title: President

North American Pipe Corporation  
Westech Profiles Limited  
Van Buren Pipe Corporation  
Westech Building Products, Inc.

By: /s/ Wayne D. Morse

Name: Wayne D. Morse

Title: President

**The Bank of New York Trust Company, N.A.,**  
as Trustee

By: /s/ Charles W. Spivey

Name: Charles W. Spivey

Title: Assistant Treasurer

## [FORM OF NOTE]

THE HOLDER OF THIS NOTE BY ACCEPTANCE HEREOF AGREES TO RESTRICTIONS ON TRANSFER AND TO INDEMNIFICATION PROVISIONS AS SET FORTH BELOW. IN ADDITION, THE NOTE REPRESENTED BY THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 AND SUCH NOTE MAY NOT BE TRANSFERRED WITHOUT COMPLIANCE WITH APPLICABLE SECURITIES LAWS.

THIS NOTE IS NOT TRANSFERABLE EXCEPT, AS FURTHER PROVIDED HEREIN, TO A SUCCESSOR OR ASSIGN OF THE GO ZONE TRUSTEE UNDER THE GO ZONE INDENTURE REFERRED TO HEREIN BETWEEN THE ISSUER AND SUCH TRUSTEE.

## WESTLAKE CHEMICAL CORPORATION

6<sup>3</sup>/<sub>4</sub>% Senior Notes due 2032

Original Interest Accrual Date:	December 13, 2007	Redeemable by Company:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Stated Maturity:	November 1, 2032	Redemption Date:	See below
Interest Rate:	6 <sup>3</sup> / <sub>4</sub> %	Redemption Price:	See below
Interest Payment Dates:	May 1 and November 1		
Regular Record Dates:	April 1 and October 1		

Principal Amount  
\$250,000,000

No. 001

WESTLAKE CHEMICAL CORPORATION, a corporation duly organized and existing under the laws of the State of Delaware (herein called the "Company," which term includes any successor under the Indenture referred to below), for value received, hereby promises to pay to THE BANK OF NEW YORK TRUST COMPANY, N.A., a national banking organization, as Trustee under the GO Zone Indenture (as herein defined) or its registered assigns (the "GO Zone Trustee"), the principal sum of TWO HUNDRED FIFTY MILLION DOLLARS, in whole or in installments on such date or dates (subject to the tenth paragraph hereof) and in such amounts, and to pay to the GO Zone Trustee premium, if any, in whole or in installments on such date or dates and in such amounts, as the Issuer (as defined herein) has any obligations under the Trust Indenture (as amended and supplemented, the "GO Zone Indenture"), dated as of November 1, 2007, between the Louisiana Local Government Environmental Facilities and Community Development Authority (the "Issuer") and the GO Zone Trustee to repay any principal or to pay premium, if any, in respect of the Revenue Bonds (Westlake Chemical Corporation Projects), Series 2007 issued under the GO Zone Indenture (hereinafter referred to as the "GO Zone Bonds"), but not later than the Stated Maturity specified above. The obligation of the Company to make any payment of principal or premium, if any, on this Note, whether at maturity or otherwise, shall be

fully or partially, as the case may be, deemed to have been paid or otherwise satisfied and discharged to the extent that the Company has paid or caused to be paid to the GO Zone Trustee the Payments (as defined below) in respect of the principal or premium, if any, then due and payable on the GO Zone Bonds.

Interest shall be payable on this Note on the same dates as interest is payable from time to time in respect of the GO Zone Bonds pursuant to the GO Zone Indenture (each such date herein called an “Interest Payment Date”), at such rate or rates per annum as shall cause the amount of interest payable on such Interest Payment Date on this Note to equal the amount of interest payable on such Interest Payment Date in respect of the GO Zone Bonds under the GO Zone Indenture. Such interest shall be payable until the maturity of this Note, or, if the Company shall default in the payment of the principal due on this Note, until the Company’s obligation with respect to the payment of such principal shall be discharged as provided in the Indenture (as defined below). The amount of interest payable from time to time in respect of the GO Zone Bonds under the GO Zone Indenture, the basis on which such interest is computed and the dates on which such interest is payable are set forth in the GO Zone Indenture. This Note shall bear interest from the Original Interest Accrual Date listed on the first page of this Note. The obligation of the Company to make any payment of interest on this Note shall be fully or partially, as the case may be, deemed to have been paid or otherwise satisfied and discharged to the extent that the Company has paid or caused to be paid to the GO Zone Trustee the Payments in respect of the interest then due and payable on the GO Zone Bonds.

This Note is issued to the GO Zone Trustee in order that the GO Zone Trustee shall have the benefit as a holder (the “Holder”) of this Note of the lien of the Indenture in the event of the non-payment by the Company of the Payments (the “Payments”), as defined in and pursuant to the Loan Agreement (as amended and supplemented, the “Loan Agreement”), dated as of November 1, 2007, between the Issuer and the Company entered into with respect to the GO Zone Bonds. Any capitalized terms used herein and not defined herein shall have the meanings specified in the Indenture, unless otherwise noted.

THIS NOTE SHALL NOT BE TRANSFERABLE EXCEPT AS REQUIRED TO EFFECT AN ASSIGNMENT HEREOF TO A SUCCESSOR OR AN ASSIGN OF THE GO ZONE TRUSTEE UNDER THE GO ZONE INDENTURE.

The GO Zone Trustee shall surrender this Note to the Trustee (as defined below) in accordance with Section 4.6(d) of the Loan Agreement.

Payments of the principal of, premium, if any, and interest on this Note shall be made at the Corporate Trust Department of The Bank of New York Trust Company, N.A., as Trustee, located at 601 Travis Street, 18th Floor, Houston, Texas 77002, or at such other office or agency as may be designated for such purpose by the Company from time to time. Payment of the principal of, premium, if any, and interest on this Note, as aforesaid, shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

This Note is one of a duly authorized issue of securities of the Company (herein called the “Securities”), issued and issuable in one or more series under and equally secured by an Indenture,

by and among the Company, the Potential Subsidiary Guarantors (as defined therein) and The Bank of New York Trust Company, N.A. (as successor to JPMorgan Chase Bank, National Association), as trustee, dated as of January 1, 2006, as supplemented by the Second Supplemental Indenture, by and among the Company, the Subsidiary Guarantors (as defined therein) and The Bank of New York Trust Company, N.A., as trustee (herein called the "Trustee," which term includes any successor trustee under the Indenture), dated as of November 1, 2007 (the "Indenture"), to which Indenture reference is hereby made for a description of the nature and extent of the security and the respective rights, limitations of rights, duties and immunities of the Company, the Trustee and the Holders of the Securities thereunder and of the terms and conditions upon which the Securities are, and are to be, authenticated and delivered and secured. The acceptance of this Note shall be deemed to constitute the consent and agreement by the Holder hereof to all of the terms and provisions of the Indenture. This Note is one of the series designated above.

Except as otherwise provided in this Note and the Second Supplemental Indenture, the Notes of this series will not be entitled to the benefit of any sinking fund or voluntary redemption provisions.

If an Event of Default, as defined in the Indenture, shall occur and be continuing, the principal of this Note may be declared due and payable in the manner and with the effect provided in the Indenture.

Except as otherwise provided in this Note and the Second Supplemental Indenture, this Note shall not be redeemable at the option of the Company or otherwise pursuant to the requirements of the Indenture, provided however that in the event of a redemption of GO Zone Bonds under Section 3.4 of the GO Zone Indenture and as reflected in the GO Zone Bonds set forth in Exhibit A thereto, the Company will redeem Notes equal in principal amount to the GO Zone Bonds to be redeemed at a redemption price equal to the redemption price of the GO Zone Bonds to be redeemed, plus accrued interest to the date fixed for redemption.

The Indenture permits, with certain exceptions as therein provided, the Trustee to enter into one or more supplemental indentures for the purpose of adding any provisions to, or changing in any manner or eliminating any of the provisions of, the Indenture with the consent of the Holders of not less than a majority in aggregate principal amount of the Securities of all series then outstanding under the Indenture, considered as one class; PROVIDED, HOWEVER, that if there shall be Securities of more than one series outstanding under the Indenture and if a proposed supplemental indenture shall directly affect the rights of the Holders of Securities of one or more, but less than all, of such series, then the consent only of the Holders of a majority in aggregate principal amount of the outstanding Securities of all series so directly affected, considered as one class, shall be required; and PROVIDED, FURTHER, that if the Securities of any series shall have been issued in more than one tranche and if the proposed supplemental indenture shall directly affect the rights of the Holders of Securities of one or more, but less than all, of such tranches, then the consent only of the Holders of a majority in aggregate principal amount of the outstanding Securities of all tranches so directly affected, considered as one class, shall be required; and PROVIDED, FURTHER, that the Indenture permits the Trustee to enter into one or more supplemental indentures for limited purposes without the consent of any Holders of Securities. The Indenture also contains provisions permitting the Holders of a majority in principal

amount of the Securities then outstanding, on behalf of the Holders of all Securities, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Security issued upon the registration of transfer hereof or in exchange therefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Note.

As provided in the Indenture and subject to certain limitations therein and herein set forth, the transfer of this Note is registrable in the Security Register, upon surrender of this Note for registration of transfer at the Corporate Trust Office of The Bank of New York Trust Company, N.A., in Houston, Texas or such other office or agency as may be designated by the Company from time to time, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Notes of this series of authorized denominations and of like tenor and aggregate principal amount, will be issued to the designated transferee or transferees.

The Company, the Trustee and any agent of the Company or the Trustee may deem and treat the person in whose name this Note shall be registered upon the Security Register for the Notes of this series as the absolute owner of such Note for the purpose of receiving payment of or on account of the principal of and interest on this Note and for all other purposes, whether or not this Note be overdue, and neither the Company nor the Trustee shall be affected by any notice to the contrary; and all such payments so made to such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon this Note to the extent of the sum or sums paid.

The Trustee may conclusively presume that the obligation of the Company to pay the principal of, premium, if any, and interest on this Note shall have been fully satisfied and discharged unless and until it shall have received a written notice from the GO Zone Trustee, signed by an authorized officer of the GO Zone Trustee and attested by the Secretary or an Assistant Secretary of the GO Zone Trustee, stating that the payment of principal of, premium, if any, or interest on this Note has not been fully paid when due and specifying the amount of funds required to make such payment.

The obligation of the Company to make any payment of the principal of, premium, if any, or interest on this Note, whether at maturity, upon redemption (including any redemption due to the occurrence of a Determination of Taxability, as such term is defined in subsection (c) of Section 3.4 of the GO Zone Indenture and reflected in the Form of the GO Zone Bonds set forth in Exhibit A thereof) or otherwise, shall be fully or partially, as the case may be, deemed to have been paid or otherwise satisfied and discharged to the extent that at the time any such payment shall be due, the then due principal, premium, if any, or interest on the GO Zone Bonds which corresponds to such amounts under this Note shall have been fully or partially paid, deemed to have been paid or otherwise satisfied and discharged. In addition, such obligation to make any payment of the principal of, premium, if any, or interest on this Note at any time shall be deemed to have been satisfied and discharged to the extent that the amount of the Company's obligation to make any payment of the principal of, premium, if any, or interest on this Note exceeds the obligation of the Company at that time to make any Payment.

No recourse under or upon any obligation, covenant or agreement contained in the Indenture or in any indenture supplemental thereto, or in any Note or coupon thereby secured, or because of any indebtedness thereby secured, shall be had against any incorporator, member, manager, stockholder, officer, director or employee, as such, past, present or future, of the Company or any predecessor or successor corporation or company, either directly or through the Company or any predecessor or successor corporation or company, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that the Indenture, any indenture supplemental thereto and the obligations thereby secured, are solely corporate obligations of the Company, and that no personal liability whatsoever shall attach to, or be incurred by, such incorporators, members, managers, stockholders, officers, directors or employees, as such, of the Company or of any predecessor or successor corporation or company, or any of them, because of the creation of the indebtedness thereby authorized, or under or by reason of any of the obligations, covenants or agreements contained in the Indenture or in any indenture supplemental thereto or in any of the Notes or coupons thereby secured, or implied therefrom.

The Holder of this Note by acceptance of this Note agrees to restrictions on transfer and to waivers of certain rights of exchange as set forth herein. THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. No service charge shall be made for the registration of transfer or exchange of this Note.

This Note shall be governed by and construed in accordance with the law of the State of New York except as provided in the Indenture.

Unless the certificate of authentication hereon has been executed by the Trustee or an Authenticating Agent by manual signature, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

**WESTLAKE CHEMICAL CORPORATION**

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

Attest:

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

**CERTIFICATE OF AUTHENTICATION**

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

Date of Authentication: \_\_\_\_\_, 2007

**THE BANK OF NEW YORK TRUST COMPANY, N.A.,**  
Trustee

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

**ASSIGNMENT FORM**

If you the Holder want to assign this Security, fill in the form below:

I or we assign and transfer this Security to

\_\_\_\_\_

(Insert assignee's social security or tax ID number)

\_\_\_\_\_

(Print or type assignee's name, address, and zip code)

and irrevocably appoint

\_\_\_\_\_

agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Date: \_\_\_\_\_

Your signature: \_\_\_\_\_

(Sign exactly as your name appears on the other side of this Security)

Signature Guarantee: \_\_\_\_\_

Signature must be guaranteed by participant in a recognized Signature Guarantee Medallion Program (or other signature Subsidiary Guarantor program reasonably acceptable to the Trustee)

GUARANTEE

The undersigned (the "Subsidiary Guarantors") have unconditionally guaranteed, jointly and severally (such guarantee by each Subsidiary Guarantor being referred to herein as the "Guarantee"), (i) the due and punctual payment of the principal of and interest on the Notes, whether at maturity, by acceleration or otherwise, the due and punctual payment of interest on the overdue principal and interest, if any, on the Notes, to the extent lawful, and the due and punctual performance of all other obligations of the Company to the Holders or the Trustee all in accordance with, and subject to the limitations of, the terms set forth in Article Ten of the Indenture and (ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

The obligation of the Subsidiary Guarantors to make any payment under this Guarantee shall be fully or partially, as the case may be, deemed to have been paid or otherwise satisfied and discharged to the extent that at the time any such payment shall be due, the then due principal, premium, if any, or interest on the GO Zone Bonds which corresponds to such amounts under this Guarantee shall have been fully or partially paid, deemed to have been paid or otherwise satisfied and discharged. In addition, such obligation to make any payment on this Guarantee at any time shall be deemed to have been satisfied and discharged to the extent that the amount of the Company's obligation to make any payment of the principal of, premium, if any, or interest on the Note exceeds the obligation of the Company at that time to make any Payment.

No past, present or future stockholder, officer, director, employee or incorporator, as such, of any of the Subsidiary Guarantors shall have any liability under the Guarantee by reason of such person's status as stockholder, officer, director, employee or incorporator. Each holder of a Note by accepting a Note waives and releases all such liability. This waiver and release are part of the consideration for the issuance of the Guarantees.

Each holder of a Note by accepting a Note agrees that any Subsidiary Guarantor named below shall have no further liability with respect to its Guarantee if such Subsidiary Guarantor otherwise ceases to be liable in respect of its Guarantee in accordance with the terms of the Indenture.

The Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication on the Notes upon which the Guarantee is noted shall have been executed by the Trustee under the Indenture by the manual signature of one of its authorized officers.

GVGP, Inc.  
North American Bristol Corporation  
Westlake Chemical Holdings, Inc.  
Westlake Chemical Investments, Inc.  
Westlake Ethylene Pipeline Corporation  
Westlake Longview Corporation  
Westlake Management Services, Inc.  
Westlake NG I Corporation  
Westlake Olefins Corporation  
Westlake Petrochemicals LP,  
    By Westlake Chemical Investments, Inc.,  
        its General Partner  
Westlake Polymers LP,  
    By Westlake Chemical Investments, Inc.,  
        its General Partner  
Westlake PVC Corporation  
Westlake Resources Corporation  
Westlake Styrene LP,  
    By Westlake Chemical Holdings, Inc.,  
        its General Partner  
Westlake Supply and Trading Company  
Westlake Vinyl Corporation  
Westlake Vinyls Company LP,  
    By GVGP, Inc., its General Partner  
Westlake Vinyls, Inc.  
WPT LP,  
    By Westlake Chemical Holdings, Inc.  
        its General Partner

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

Geismar Holdings, Inc.  
Westlake Chemical Manufacturing, Inc.  
Westlake Chemical Products, Inc.  
Westlake Development Corporation

By: \_\_\_\_\_  
Name:  
Title:  
North American Pipe Corporation  
Westech Profiles Limited  
Van Buren Pipe Corporation  
Westech Building Products, Inc.

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

**LOAN AGREEMENT**

**By and Between**

**LOUISIANA LOCAL GOVERNMENT ENVIRONMENTAL  
FACILITIES AND COMMUNITY DEVELOPMENT AUTHORITY**

**and**

**WESTLAKE CHEMICAL CORPORATION**

**Relating to**

**\$250,000,000**

**LOUISIANA LOCAL GOVERNMENT ENVIRONMENTAL FACILITIES  
AND COMMUNITY DEVELOPMENT AUTHORITY  
REVENUE BONDS  
(WESTLAKE CHEMICAL CORPORATION PROJECTS),  
SERIES 2007**

**TABLE OF CONTENTS**

	<b><u>Page</u></b>	
ARTICLE I	DEFINITIONS AND RULES OF CONSTRUCTION	3
SECTION 1.1	Definitions	3
SECTION 1.2	Rules of Construction	7
ARTICLE II	REPRESENTATIONS	7
SECTION 2.1	Representations of the Authority	7
SECTION 2.2	Representations of the Borrower	8
ARTICLE III	TERM, NATURE AND BENEFITS OF AGREEMENT; PERFORMANCE OF THE PROJECTS	9
SECTION 3.1	Term	9
SECTION 3.2	Nature and Benefits	9
SECTION 3.3	Performance of the Projects	10
SECTION 3.4	Revision of Project Documents	10
SECTION 3.5	Disbursements from Construction Fund	10
SECTION 3.6	Completion of Payment of Costs of the Projects	10
SECTION 3.7	Additional Costs of the Projects	10
SECTION 3.8	Establishment of Completion Date	11
SECTION 3.9	No Warranty of Condition or Suitability	11
ARTICLE IV	DISBURSEMENT OF BOND PROCEEDS; PAYMENTS; CREDITS; OBLIGATIONS UNCONDITIONAL; PREPAYMENT; REDEMPTION; CORRESPONDING NOTES	11
SECTION 4.1	Disbursement of Bond Proceeds	11
SECTION 4.2	Amounts Payable	11
SECTION 4.3	Credits Against Payments	13
SECTION 4.4	Obligation to Make Payments	14
SECTION 4.5	Prepayment and Redemption	14
SECTION 4.6	Issuance, Delivery and Surrender of Notes	15
ARTICLE V	NON-ARBITRAGE	16
SECTION 5.1	Covenants as to Arbitrage	16
ARTICLE VI	CERTAIN COVENANTS	17
SECTION 6.1	Covenants Regarding the Projects	17
SECTION 6.2	Environmental Covenants	18
SECTION 6.3	Indemnification	19
SECTION 6.4	Compliance with Continuing Disclosure	20
SECTION 6.5	Covenants, Representations and Warranties Relating to Federal Income Taxation	20
SECTION 6.6	Reliance	22
SECTION 6.7	No Violations of Law	22
SECTION 6.8	Immunity of Officers, Employees and Members of the Authority	22

ARTICLE VII	ASSIGNMENT	23
SECTION 7.1	Assignment of this Agreement	23
SECTION 7.2	Restrictions on Transfer of Authority's Rights	23
SECTION 7.3	Assignment by the Authority	23
ARTICLE VIII	SUPPLEMENTS AND AMENDMENTS	23
SECTION 8.1	Amendment Without Consent	23
SECTION 8.2	Amendment Upon Approval of a Majority of Bondholders	24
SECTION 8.3	Filing	25
SECTION 8.4	Reliance on Counsel	25
ARTICLE IX	EVENTS OF DEFAULT; REMEDIES	25
SECTION 9.1	Events of Default Defined	25
SECTION 9.2	Remedies	26
SECTION 9.3	No Remedy Exclusive; Selective Enforcement	27
SECTION 9.4	Indenture Overriding	27
SECTION 9.5	Agreement to Pay Attorneys' Fees and Expenses	27
SECTION 9.6	Authority and Borrower to Give Notice of Default	27
SECTION 9.7	Correlative Waivers	27
ARTICLE X	MISCELLANEOUS	27
SECTION 10.1	References to the Bonds Ineffective After Bonds Paid	27
SECTION 10.2	Amounts Remaining in Funds	28
SECTION 10.3	Notices	28
SECTION 10.4	Binding Effect	28
SECTION 10.5	Performance on Legal Holidays	29
SECTION 10.6	Execution In Counterparts	29
SECTION 10.7	Governing Law	29
SECTION 10.8	Severability	29
SECTION 10.9	Captions	29
SECTION 10.10	Consents and Approvals	29
SECTION 10.11	Obligations	30
SECTION 10.12	Third Party Beneficiaries	30
SECTION 10.13	Exculpatory Provision	30
SECTION 10.14	Accounts and Audits	30
SECTION 10.15	Date of Loan Agreement	31

Annex A – Components of the Projects

Annex B – Form of Continuing Disclosure Agreement

## LOAN AGREEMENT

This **LOAN AGREEMENT** dated as of November 1, 2007 (together with any amendments and supplements hereto as permitted hereunder, this **“Agreement”**), is made by and between the **Louisiana Local Government Environmental Facilities and Community Development Authority** (the **“Authority”**), a political subdivision of the State of Louisiana created pursuant to the authority of Chapter 10-D of Title 33 of the Louisiana Revised Statutes of 1950, as amended (La. R.S. 33:4548.1 through 4548.16), (and all future acts supplemental thereto and amendatory thereof, the **“Act”**), and **Westlake Chemical Corporation**, a Delaware corporation (the **“Borrower”**).

### WITNESSETH:

WHEREAS, the Authority was duly created under and pursuant to the provisions of the Act as a political subdivision of the State of Louisiana; and

WHEREAS, the Authority is a political subdivision of the State and, in accordance with the provisions of the Gulf Opportunity Zone Act of 2005 (Public Law 109-135) and any rules and regulations promulgated thereunder (the **“GO Zone Act”**), is qualified to issue the Bonds (as such term is defined below); and

WHEREAS, the Authority is authorized by the Act, among other things, to assist in financing acquisitions for the furtherance of economic development or other public functions or purposes of any political subdivision, including but not limited to economic development, industrial and manufacturing facilities located in the State of Louisiana (the **“State”**); and

WHEREAS, pursuant to the Act, and in order to encourage the construction of such facilities, which the Authority believes to be in the public interest and for the benefit of the wealth, health and safety of the citizens of the State, the Authority is authorized to issue its revenue bonds and loan the proceeds of the revenue bonds to the Borrower; and

WHEREAS, pursuant to the Act and the GO Zone Act, the Authority is authorized to, and believes it to be in the best interest of the Authority and the State, to issue its revenue bonds and loan the funds derived from the sale thereof to the Borrower for the purpose of providing funds to allow the Borrower to finance: (1) the costs of expanding, equipping and improving the Borrower’s petrochemical manufacturing facilities (the **“Lake Charles Facilities”**), including all immovable equipment, furnishings, fixtures and facilities incidental or necessary in connection therewith that are allowed to be financed under the GO Zone Act, located in Calcasieu Parish, Louisiana (the **“Calcasieu Project”**), and (2) (a) the costs of designing, constructing and equipping a new expansion to the Borrower’s petrochemical manufacturing facilities (the **“Geismar Facilities”**) and, together with the Lake Charles Facilities, the **“Facilities”**), including all immovable equipment, furnishings, fixtures and facilities incidental or necessary in connection therewith that are allowed to be financed under the GO Zone Act, located in Ascension Parish, Louisiana and/or (b) the costs of expanding, renovating and equipping the Borrower’s Geismar Facilities, including all immovable equipment, furnishings, fixtures and facilities incidental or necessary in connection therewith

that are allowed to be financed under the GO Zone Act (collectively, the “**Ascension Projects**” and, together with the Calcasieu Project, the “**Projects**”); and

WHEREAS, the Borrower and the Authority are empowered to consummate the transactions contemplated hereunder and to do all acts and exercise all powers and assume all obligations necessary, or incident thereto; and

WHEREAS, in consideration of the issuance of the Bonds by the Authority, the Borrower will agree to make payments pursuant to this Agreement in an amount sufficient to pay the principal of, premium, if any, and interest on the Bonds (as hereinafter defined) and to pay such other amounts as are required by this Agreement; and

WHEREAS, the Authority has adopted a resolution authorizing the sale and the issuance of the Bonds, the execution and delivery of instruments pertaining to the issuance thereof and other actions to be taken by the Executive Committee of the Authority in connection with the authorization, issuance, sale and delivery of the Bonds and the application of the proceeds thereof; and

WHEREAS, all acts, conditions and things required by the laws of the State to happen, exist and be performed precedent to and in the execution and delivery of this Agreement have happened, exist and have been performed as so required in order to make this Agreement a valid and binding agreement in accordance with its terms; and

WHEREAS, each of the parties hereto represents that it is fully authorized to enter into and perform and fulfill the obligations imposed upon it under this Agreement and the parties are now prepared to execute and deliver this Agreement; and

WHEREAS, in consideration of the respective representations and agreements contained herein, the parties hereto, recognizing that under the Act this Agreement shall not in any way obligate the State or any political subdivision thereof, including, without limitation, the Authority, to raise any money by taxation or use other public moneys for any purpose in relation to the Bonds and that neither the State nor the Authority, shall pay or promise to pay any debt or meet any financial obligation to any person at any time in relation to the Bonds except from moneys received or to be received under the provisions of this Agreement and the Indenture or derived from the exercise of the rights of the Authority thereunder, agree as follows:

NOW, THEREFORE, THIS LOAN AGREEMENT WITNESSETH (provided that any obligation of the Authority created by or arising out of this Agreement will not constitute a debt or a general obligation or a pledge of the faith and credit of the Authority, the State or any political subdivision thereof, and the Bondholders (as hereinafter defined) will have no right to compel the exercise of the taxing powers of the State or any political subdivision thereof for the payment of principal of or any interest on the Bonds):

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

SECTION 1.1 Definitions.

All capitalized terms not otherwise defined herein shall have the meanings assigned thereto in the preamble hereto or in the Indenture. In addition to words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings, unless some other meaning is plainly intended:

“**Act**” has the meaning set forth in the Preamble hereto.

“**Administrative Expenses**” means the necessary, reasonable and direct out-of-pocket expenses incurred by the Authority or the Trustee pursuant to this Agreement and the Indenture, the compensation of the Trustee under the Indenture (including, but not limited to an annual administrative fee charged by the Trustee), and the necessary, reasonable and direct out-of-pocket expenses of the Trustee incurred by the Trustee in the performance of its duties under the Indenture.

“**Agreement**” has the meaning set forth in the Preamble hereto.

“**Ascension Projects**” has the meaning set forth in the Recitals hereto.

“**Authority**” has the meaning set forth in the Preamble hereto.

“**Authority Indemnitees**” has the meaning set forth in Section 6.3(a) hereof.

“**Authorized Borrower Representative**” means either (i) the President and Chief Executive Officer of the Borrower, (ii) the Vice President, Chief Financial Officer and Treasurer of the Borrower or (iii) any person subsequently designated to act under this Agreement and the Indenture on behalf of the Borrower by a written certificate furnished to the Trustee containing the specimen signature of such person(s) and signed on behalf of the Borrower by either (i) the President and Chief Executive Officer of the Borrower or (ii) the Vice President, Chief Financial Officer and Treasurer of the Borrower.

“**Bond Counsel**” means Breazeale, Sachse & Wilson, L.L.P. and its successors, or such other nationally recognized bond counsel as may be selected by the Authority and acceptable to the Borrower.

“**Bondholder**” or “**owner**”, when used with reference to a Bond or Bonds, means the registered owner of any outstanding Bond or Bonds.

“**Bonds**” means the Louisiana Local Government Environmental Facilities and Community Development Authority Revenue Bonds (Westlake Chemical Corporation Projects), Series 2007, authorized to be issued by the Authority in the aggregate principal amount of \$250,000,000, including such Bonds issued in exchange for other such Bonds pursuant to this

Indenture, or in replacement for mutilated, destroyed, lost or stolen Bonds pursuant to this Indenture.

“**Borrower**” has the meaning set forth in the Preamble hereto.

“**Business Day**” means any day other than (i) a Saturday, (ii) a Sunday, (iii) any other day on which banking institutions in New York, New York or Baton Rouge, Louisiana are authorized or required not to be open for the transaction of regular banking business, and (iv) any other day on which the New York Stock Exchange is closed.

“**Calcasieu Project**” has the meaning set forth in the Recitals hereto.

“**Closing Date**” means the date on which the Bonds are delivered and payment therefor is received by the Authority.

“**Code**” means the Internal Revenue Code of 1986, as amended, and the regulations and rulings promulgated thereunder.

“**Construction Fund**” means the fund of that name created under the Indenture.

“**Continuing Disclosure Agreement**” means the agreement substantially in the form of Annex B attached hereto.

“**Costs of the Projects**” means those costs incurred by the Borrower in connection with the Projects, as set forth in Section 4.7 of the Indenture.

“**Defeasance Obligations**” means investments described in paragraphs (1) and (2) of the definition of Permitted Investments in the Indenture.

“**Environmental Regulation**” means any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating to dangerous, toxic or hazardous pollutants, contaminants, chemical waste, materials or substances.

“**Event of Default**” and “**Default**” have the meanings set forth in Article IX hereof.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Facilities**” has the meaning set forth in the Recitals hereto.

“**Geismar Facilities**” has the meaning set forth in the Recitals hereto.

“**GO Zone Act**” has the meaning set forth in the Recitals hereto.

“**Hazardous Substance**” means dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances as defined in Environmental Regulations, and also any urea formaldehyde, polychlorinated biphenyls, asbestos, asbestos-containing materials, nuclear fuel or waste, radioactive materials, explosives, carcinogens and petroleum products, or any other waste, material, substance, pollutant or contaminant which

would subject the owner or mortgagee or any holder to any damages, penalties or liabilities under any applicable Environmental Regulation.

**“Indemnified Party”** has the meaning set forth in Section 10.3 hereof.

**“Indenture”** means the Trust Indenture, dated as of November 1, 2007, between the Authority and the Trustee providing for the issuance of the Bonds, as it may be amended or supplemented from time to time by supplemental indentures in accordance with the provisions thereof.

**“Interest Payment Date”** or **“interest payment date”**, when used with respect to the Bonds, means each May 1 and November 1, commencing May 1, 2008.

**“Interest Payments”** has the meaning set forth in Section 4.2(a) hereof.

**“Investment Grade”** means a rating of (i) Baa3 or better by Moody’s or BBB- or better by S&P (or, if either such entity ceases to rate the unsecured senior debt securities of the Borrower for reasons outside of the control of the Borrower, the equivalent investment grade credit rating from any other “nationally recognized statistical rating organization” within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act selected by the Borrower as a replacement agency) and (ii) the equivalent investment grade credit rating from another “nationally recognized statistical rating organization” within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act (including, for the avoidance of doubt, S&P if the agency referred to in clause (i) is Moody’s, or vice versa).

**“Lake Charles Facilities”** has the meaning set forth in the Recitals hereto.

**“Loan”** means the aggregate amount of the moneys loaned to the Borrower pursuant to this Agreement.

**“Losses”** has the meaning set forth in Section 6.3(b) hereof.

**“Maturity Date”** means the stated maturity or such earlier date as the Bonds shall be redeemed.

**“Net Proceeds”** means amounts received upon the issuance and sale of the Bonds, together with any investment earnings thereon, prior to the expenditure thereof pursuant to Article III of this Agreement.

**“Notes”** has the meaning set forth in Section 4.6(a) hereof.

**“Notes Trustee”** has the meaning set forth in Section 4.6(a) hereof.

**“Outstanding”** or **“Outstanding Bonds”**, when used with reference to Bonds, means all Bonds which have been authenticated and issued under the Indenture except:

- (a) Bonds canceled by the Trustee pursuant to the Indenture;

(b) Bonds for the payment of which moneys or Defeasance Obligations shall be held in trust for their payment by the Trustee as provided in the defeasance provisions of the Indenture;

(c) Bonds which have been duly called for redemption and for which the redemption price thereof is held in trust by the Trustee as provided in the Indenture;

(d) Bonds in exchange for which other Bonds shall have been authenticated and delivered by the Trustee as provided in the Indenture; and

(e) for all purposes regarding consents and approvals or directions of Bondholders under this Agreement or the Indenture, Bonds held by or for the Authority, the Borrower or any person controlling, controlled by or under common control with either of them.

**“Payments”** means the amounts paid by the Borrower as provided in Article IV of this Agreement for the purpose of repaying the loan made by the Authority under this Agreement from the proceeds of the Bonds.

**“Person”, “person”** or words importing persons mean and include firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, estates, trusts, corporations, limited liability companies, public or governmental bodies or other legal entities and natural persons.

**“Principal Payment”** has the meaning set forth in Section 4.2(a) hereof.

**“Project Documents”** means collectively this Agreement, and any asset purchase agreements (and amendments thereto), construction contracts (and amendments thereto), other contract documents and agreements (and amendments thereto), and surety bonds and instruments pertaining to any component of the Projects.

**“Projects”** has the meaning set forth in the Recitals hereto.

**“Qualified Project Costs”** means the Costs of the Projects that were paid or incurred after April 15, 2007 and that are incurred for those components of the Project that constitute “nonresidential real property, including fixed improvements associated with such property” located in the Gulf Opportunity Zone within the meaning of the GO Zone Act and facilities functionally related and subordinate thereto within the meaning of United States Treasury Regulation section 1.103-8(a)(3), and which for federal income tax purposes are chargeable to the capital account(s) of such items of property included in the Projects or would be so chargeable either with a proper election or but for a proper election to deduct such Costs of the Projects.

**“Requisition”** means written requisitions from the Construction Fund in the form attached as Exhibit B to the Indenture.

**“Senior Notes Indenture”** means that certain Indenture among the Borrower, the Potential Subsidiary Guarantors (as defined therein) and The Bank of New York Trust Company, N.A. (as successor to JPMorgan Chase Bank, National Association), as trustee, dated as of

“**State**” has the meaning set forth in the Recitals hereto.

“**Tax Certificate**” means the Tax Certificate of the Borrower dated the date of issuance of the Bonds.

“**Trustee**” means the state banking corporation or national banking association with corporate trust powers qualified to act as Trustee under the Indenture which may be designated (originally or as a successor) as Trustee for the owners of the Bonds issued and secured under the terms of the Indenture, initially The Bank of New York Trust Company, N.A.

“**Trustee Indemnitees**” has the meaning set forth in Section 6.3(b) hereof.

**SECTION 1.2 Rules of Construction.**

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, the word “person” shall include the plural as well as the singular number, and “person” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

(c) Provisions calling for the redemption of Bonds or the calling of Bonds for redemption do not mean or include the payment of Bonds at their stated maturity or maturities.

(d) All references in this Agreement to designated “Articles”, “Sections” and other subdivisions are to the designated Articles, Sections and other subdivisions of this Agreement. The words “herein”, “hereof”, “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

**ARTICLE II**

**REPRESENTATIONS**

**SECTION 2.1 Representations of the Authority.**

The Authority represents and warrants as follows:

(a) The Authority is a political subdivision of the State existing under the Constitution and laws of the State;

(b) The Authority has complied and continues to comply and will comply in all respects with all applicable provisions of the laws of the State relating to its organization and existence;

(c) The Authority has duly accomplished all conditions and has taken all steps necessary to be accomplished or taken by it prior to issuance and delivery of the Bonds and the execution and delivery of this Agreement and the Indenture;

(d) The Authority is not in violation of or conflict with any provisions of the laws of the State which would impair its ability to undertake the transactions contemplated by this Agreement and the Indenture or carry out its obligations under this Agreement and the Indenture;

(e) The Authority is empowered to enter into the transactions contemplated by this Agreement and the Indenture, and the execution and performance of this Agreement by the Authority will not violate or conflict with any document or instrument by which the Authority or its properties are bound;

(f) The Authority has duly authorized the execution, delivery and performance of this Agreement and the Indenture and such authorization has not been repealed or modified; and

(g) The Authority will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement and the Indenture by any successor public body.

#### SECTION 2.2 Representations of the Borrower.

The Borrower makes the following representations and warranties:

(a) The Borrower is a corporation duly organized and validly existing under the laws of the State of Delaware;

(b) The Borrower has full power and authority to execute and deliver this Agreement and to enter into and carry out the transactions contemplated on its part herein and therein. Such execution, delivery and performance are not in contravention of applicable local, state or federal law or the Borrower's certificate of incorporation, or any indenture, agreement or undertaking which is material to the Borrower to which the Borrower is a party or by which it is bound (provided that the foregoing does not apply to any action required under state securities or Blue Sky laws in connection with the original sale by the Authority and purchase and distribution of the Bonds). This Agreement has, by proper action, been duly authorized, executed and delivered by the Borrower and all steps necessary have been taken by the Borrower to constitute this Agreement valid and binding obligations of the Borrower, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and by general principles of equity (regardless of whether enforcement thereof is sought in a proceeding at law or in equity);

(c) Each component of the Projects constitutes “nonresidential real property” within the meaning of the GO Zone Act, including fixed improvements associated with such property, and is or, when acquired, will be located within the geographical limits of the State of Louisiana and within the area comprising the “Gulf Opportunity Zone” pursuant to the GO Zone Act;

(d) The Projects constitute an “Authorized Project” under La. R.S. 33:4548.3.B, and the Borrower will operate the Projects as an “Authorized Project” under La. R.S. 33:4548.3.B for so long as the Bonds remain outstanding;

(e) The Borrower presently does not intend to sell or dispose of the Projects or any portion thereof; and

(f) No Costs of the Projects to be paid or incurred by or on behalf of the Borrower out of the Construction Fund were paid or incurred prior to April 15, 2007.

### ARTICLE III

#### TERM, NATURE AND BENEFITS OF AGREEMENT; PERFORMANCE OF THE PROJECTS

##### SECTION 3.1 Term.

The term of this Agreement shall commence on the Closing Date for the Bonds, and shall terminate (unless discharged upon prepayment of all sums due hereunder by the Borrower prior thereto as hereinafter provided) on the date on which the Bonds and all other sums due hereunder shall have been paid or provision for their payment shall have been made in accordance herewith. Notwithstanding the foregoing, the indemnification provisions of this Agreement shall survive the termination thereof and the defeasance of the Bonds under the Indenture.

##### SECTION 3.2 Nature and Benefits.

This Agreement has been executed and delivered in part to induce concurrently herewith the purchase by others of the Bonds, and, accordingly, all covenants and agreements on the part of the Borrower and the Authority, as set forth therein and herein, are hereby declared to be for the benefit of the Trustee for the owners from time to time of the Bonds. The Borrower consents and agrees to the assignment by the Authority to the Trustee under the Indenture of all of the Authority’s right, title and interest (except for certain rights relating to exculpation, indemnification and payment of expenses) in, to and under this Agreement and agrees that the provisions hereof may be enforced by the Trustee under the provisions of the Indenture. The Borrower agrees to do all things within its power in order to comply with, and to enable the Authority to comply with, all requirements and to fulfill, and to enable the Authority to fulfill, all covenants of the Indenture and the Bonds.

This Agreement is a debt obligation of the Borrower not subject to cancellation due to inability to appropriate funds to make Payments and shall remain in full force and effect until the Bonds and the interest thereon and all amounts due and owing hereunder and under the Indenture have been fully paid or otherwise provided for or discharged.

**SECTION 3.3 Performance of the Projects.**

The Projects shall consist of the components of the Projects set forth on Annex A to this Agreement; provided, however, that additional components of the Projects may be added or the components of the Projects may be revised by the Borrower without the consent of the Authority, the Trustee or the Bondholders so long as any such addition or revision, in the opinion of Bond Counsel, (i) can be funded under the GO Zone Act by funds held in the funds and accounts created under the Indenture and (ii) shall not impair the exclusion from gross income of interest on the Bonds for Federal income tax purposes.

The Borrower, to the extent that it uses funds held in the funds and accounts created under the Indenture to fund such components, shall perform the components of the Projects with reasonable dispatch in accordance with the relevant Project Documents and shall take reasonable action necessary to enforce the provisions of such Project Documents.

**SECTION 3.4 Revision of Project Documents.**

The Borrower may revise the Project Documents and the description of the Projects from time to time without the consent of the Authority, the Trustee or the holders of the Bonds; provided, however, that in the opinion of Bond Counsel, no such revision shall impair the exclusion from gross income of interest on the Bonds for Federal income tax purposes.

**SECTION 3.5 Disbursements from Construction Fund.**

The money in the Construction Fund shall be applied by the Trustee, and in connection therewith Requisitions shall be presented by the Borrower signed by an Authorized Borrower Representative, for payment of the Costs of the Projects in accordance with Article IV of the Indenture and Article III of this Agreement, and pending such application such money shall be invested and reinvested in accordance with Article IV of the Indenture. The form of requisition for Requisitions from the Construction Fund is attached to the Indenture as Exhibit B.

**SECTION 3.6 Completion of Payment of Costs of the Projects.**

At such time as the Borrower has notice that the funds on deposit in the Construction Fund, together with the investment earnings thereon, are insufficient to pay for all of the components of the Projects, the Borrower (i) shall deliver to the Trustee and the Authority written estimates by an Authorized Borrower Representative of the additional funds required to pay the costs of completing such remaining components of the Projects, or (ii) shall advise the Trustee and the Authority that it will not complete such components of the Projects, but only in the event the failure to complete such components of the Projects will not materially adversely impact the operations of the Borrower at the applicable Facilities.

**SECTION 3.7 Additional Costs of the Projects.**

If after exhaustion of the money in the Construction Fund the Borrower should pay any portion of the Costs of the Projects, it shall not be entitled to any reimbursement therefor from the Authority or from the Trustee, and shall not be entitled to any abatement, diminution or postponement of payments required to be made by it under this Agreement.

SECTION 3.8 Establishment of Completion Date.

The date upon which the money in the Construction Fund has been substantially exhausted shall be evidenced to the Authority and the Trustee by a certificate signed by an Authorized Borrower Representative. Subject to Section 3.6, the certificate shall set forth the total Costs of the Projects and state that, except for amounts not then due and payable, or the liability for the payment of which is being contested or disputed in good faith by the Borrower, (a) the acquisition, construction and equipping of the components of the Projects have been completed and the Costs of the Projects have been paid, and (b) all other facilities necessary in connection with the Projects have been acquired, constructed and installed and all costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties that exist at the date of such certificate or which may subsequently come into being.

SECTION 3.9 No Warranty of Condition or Suitability.

The Borrower acknowledges its full familiarity with the Projects and that the Authority has no responsibility for the construction or completion of the Projects. The Authority makes no representation or warranty, either express or implied, and offers no assurance that the proceeds of the Bonds will be sufficient to pay in full the Costs of the Projects in accordance with the Project Documents.

**ARTICLE IV**

**DISBURSEMENT OF BOND PROCEEDS; PAYMENTS;  
CREDITS; OBLIGATIONS UNCONDITIONAL;  
PREPAYMENT; REDEMPTION; CORRESPONDING NOTES**

SECTION 4.1 Disbursement of Bond Proceeds.

In order to provide funds for paying the Costs of the Projects, the Authority, as soon as practicable after the execution of this Agreement, will proceed to issue, sell and deliver the Bonds to the purchasers thereof and will deposit the proceeds thereof as provided by Section 4.1 of the Indenture with the Trustee for disbursement in accordance with the provisions of the Indenture.

SECTION 4.2 Amounts Payable.

Upon the terms and conditions of this Agreement, the Authority shall loan to the Borrower the proceeds of the sale of the Bonds. The proceeds of the Loan shall be deposited with the Trustee and applied in accordance with the Indenture.

The Borrower, for and in consideration of the issuance of the Bonds under the Indenture by the Authority and the application of the proceeds thereof by the Authority as provided in the Indenture for the benefit of the Borrower, hereby promises to repay the Loan in accordance with the terms hereof, by making the following payments (collectively, the **"Payments"**) to or for the account of the Authority:

(a) Regular Payments:

(i) **“Interest Payments”** being an amount sufficient for the payment in full of the total interest due and payable to the date of payment thereof on the Bonds from time to time issued under the Indenture and then outstanding. The Interest Payments with respect to the Bonds shall be payable directly to the Trustee for the account of the Authority on the Interest Payment Dates.

(ii) **“Principal Payment”** being an amount sufficient for the payment in full of all Bonds from time to time issued under the Indenture and then outstanding. The Principal Payment with respect to the Bonds shall be payable directly to the Trustee for the account of the Authority on the Maturity Date.

(iii) Each installment of the Payments and premium, if any, payable by the Borrower hereunder shall be in an amount which, without regard to the payments required under Article IV of the Indenture, shall be designed to provide for the timely payment in full of the principal of, premium, if any, and interest on the Bonds.

(iv) Notwithstanding anything to the contrary contained herein, the Borrower promises that it will pay the Payments in accordance with the terms hereof at such times and in such amounts so as to assure that no default in the payment of the principal of, premium, if any, or interest on the Bonds shall at any time occur. The Borrower does hereby obligate itself and its successors to budget and appropriate annually a sum of money sufficient to make the Payments required by this Agreement, including any principal and/or interest on the Bonds theretofore matured and unpaid and to collect revenues sufficient to make such Payments.

(v) Whenever the Borrower shall fail to pay the full amount of any installment of Payments payable under Section 4.2(a) by the date on which such installment is due, the Trustee shall give immediate telephonic notice thereof, promptly confirmed in writing, to an Authorized Borrower Representative.

(b) Special Payments:

(i) **“Change of Control Payment”** being the an amount sufficient for the payment in full in satisfaction of a Change of Control Offer (as defined in the Indenture). The Change of Control Payment with respect to the Bonds shall be payable directly to the Trustee for the account of the Borrower Designee (as defined in the Indenture) on the Change of Control Payment Date (as defined in the Indenture).

(ii) **“Asset Sale Payment”** being an amount sufficient for the payment in full in satisfaction of an Asset Sale Offer (as defined in the Senior Notes Indenture). The Asset Sale Payment with respect to the Bonds shall be payable directly to the Trustee for the account of the Borrower on the completion of the Asset Sale Offer.

(c) Default or Delay Payments consisting of the amounts, fees and expenses which the Authority may incur or be or become legally obligated to pay under the terms of the Bonds or the Indenture by reason of any default hereunder or thereunder or any default or delay in Payment of the sums due hereunder or thereunder, provided that such default or delay shall have resulted in the Borrower's default or breach of covenant under this Agreement; the amount expended by the Authority or the Trustee or indebtedness incurred by the Authority or the Trustee for the purpose of curing the Borrower's defaults hereunder or in connection with any defaults under the Bonds or the Indenture (provided that such default shall have resulted in the Borrower's default or breach of covenant under this Agreement) and all costs, expenses and charges, including reasonable attorneys' fees, incurred by the Authority or the Trustee in collecting the Payments or in enforcing any covenant or agreement of the Borrower contained in this Agreement or incurred in pursuing any remedy hereunder or under the Indenture.

(d) Costs of Issuance and Trustee Expense Payments consisting of costs of issuance of the Bonds and the Administrative Expenses, including the Authority's fees, the Trustee's initial acceptance fee, and the fees and expenses of counsel to the Trustee in connection with the issuance of the Bonds, to be paid directly to the Authority, the Trustee or counsel to the Trustee upon demand, and, commencing on the Closing Date and continuing until the principal of and interest on all Outstanding Bonds shall have been fully paid, all expenses owed under the Indenture or this Agreement, including (i) the annual fee, if any, of the Trustee for the ordinary services of the Trustee rendered and ordinary expenses incurred under the Indenture during the twelve month period preceding that date, (ii) the reasonable fees and charges of the Authority or the Trustee, and all costs relating to the exchanging of Bonds as provided in the Indenture, as and when the same become due, and (iii) the reasonable fees and charges of the Authority or the Trustee for necessary extraordinary services rendered by it and extraordinary expenses incurred by it under the Indenture, including reasonable attorneys' fees, as and when the same become due, provided that the Borrower may, without creating a default hereunder, contest in good faith the necessity for any such extraordinary services and extraordinary expenses and the reasonableness of any such fees, charges or expenses, and in the event of such contest may only withhold payment of the contested fees, charges or expenses.

#### SECTION 4.3 Credits Against Payments.

A credit against and reduction of the Payments shall be derived only from the following sources:

- (a) Any capitalization of interest from the proceeds of the Bonds;
- (b) Surplus moneys (including investment earnings) contained in the funds and accounts held by the Trustee under the Indenture;
- (c) Advance payments or prepayments of Payments; and
- (d) Reductions in principal and interest requirements of Bonds due to the purchase or redemption of Bonds as provided in the Indenture.

#### SECTION 4.4 Obligation to Make Payments.

As authorized by the Act, the obligation of the Borrower to repay the Loan by making the Payments in accordance with the terms hereof, shall be absolute and unconditional and shall not be subject to, nor shall the Borrower be entitled to assert, any rights of non-appropriation, abatement, deduction, reduction, deferment, recoupment, setoff, offset or counterclaim by the Borrower or any other person, nor shall the same be abated, abrogated, waived, diminished, postponed, delayed or otherwise modified under or by reason of any circumstance or occurrence that may arise or take place, irrespective of what statutory rights the Borrower may have to the contrary, including but without limiting the generality of the foregoing:

(a) Any damage to or destruction of part or all of the Projects;

(b) The taking or damaging of part or all of the Projects or any temporary or partial use thereof by any public authority or agency in the exercise of the power of eminent domain, sequestration or otherwise;

(c) Any assignment, novation, merger, consolidation, transfer of assets, leasing or other similar transaction of, by or affecting the Borrower, except as otherwise provided in this Agreement;

(d) Any change in the tax or other laws of the United States, the State or any governmental authority;

(e) Any failure of title or any lawful or unlawful prohibition of the Borrower's use of the Projects or any portion thereof or the interference with such use by any person or any commercial frustration of purpose or loss or revocation of any permits, licenses or other authorizations required for the operation of the Projects; and

(f) Any failure of the Authority or the Trustee to perform and observe any agreement or covenant, express or implied, or any duty, liability or obligation arising out of or in connection with this Agreement, the invalidity, enforceability or disaffirmance of any of this Agreement, the Indenture or the Bonds or for any other cause similar or dissimilar to the foregoing.

Furthermore, the Borrower covenants and agrees that it will remain obligated under this Agreement in accordance with its terms, and that it will not take or participate or acquiesce in any action to terminate, rescind or avoid this Agreement.

#### SECTION 4.5 Prepayment and Redemption.

The Borrower shall have the option to prepay its obligations hereunder at the times and in the amounts as necessary to exercise its option to cause the Bonds to be redeemed as set forth in the Indenture and in the Bonds. The Borrower hereby agrees that it shall prepay its obligations hereunder at the times and in the amounts as necessary to accomplish the extraordinary mandatory redemption of the Bonds as set forth in the Indenture and in the Bonds. The Authority, at the request of the Borrower, shall forthwith take all steps (other than the payment of the money required for such redemption) necessary under the applicable redemption provisions

of the Indenture to effect redemption of all or part of the outstanding Bonds, as may be specified by the Borrower, on the date established for such redemption.

Payments owed hereunder due to the early redemption of the Bonds shall be paid to the Trustee on or prior to the date set for redemption thereof.

SECTION 4.6 Issuance, Delivery and Surrender of Notes.

(a) In order to secure, on behalf of the Authority, the obligation of the Borrower to make the Payments, concurrently with the issuance and delivery by the Authority of the Bonds, the Borrower shall issue and deliver to the Trustee a series of its notes (the “Notes”) under the Senior Notes Indenture (i) maturing on the same date and in the same principal amount as the Bonds, (ii) bearing interest at an interest rate at all times equal to the interest rate borne by the Bonds, payable on the dates on which interest is payable on the Bonds, (iii) containing correlative redemption provisions (a) to the provisions of Section 3.4 of the Indenture and reflected in the Form of Bond set forth in Exhibit A thereto and (b) providing that upon receipt by the trustee under the Senior Notes Indenture (the “Notes Trustee”) of a written demand from the Trustee stating that the principal amount of all Bonds then outstanding under the Indenture has been declared immediately due and payable, the Borrower, subject to the terms and provisions of the Notes, will redeem the Notes not more than 180 days after receipt by the Notes Trustee of such written demand, and (iv) subject to the provisions of subsection (b) of this Section 4.6, requiring payments of the principal thereof and the premium, if any, and interest thereon to be made to the Trustee.

(b) The obligation of the Borrower to make any payment of the principal of, premium, if any, or interest on the Notes, whether at maturity, upon redemption (including any redemption due to the occurrence of a Determination of Taxability, as such term is defined in Section 3.4(c) of the Indenture and reflected in the Form of the Bonds set forth in Exhibit A thereto) or otherwise, shall be fully or partially, as the case may be, deemed to have been paid or otherwise satisfied and discharged to the extent that at the time any such payment shall be due, the then due principal or purchase price of, premium, if any, or interest on the Bonds which corresponds to such amounts under the Notes shall have been fully or partially paid, deemed to have been paid or otherwise satisfied and discharged. In addition, such obligation to make any payment of the principal of, premium, if any, or interest on the Notes at any time shall be deemed to have been satisfied and discharged to the extent that the amount of the Borrower’s obligation to make any payment of the principal of, premium, if any, or interest on the Notes exceeds the obligation of the Borrower at that time to make any Payment.

(c) The Authority shall not attempt to sell, assign or transfer the Notes, except to the extent of the assignment and pledge thereof to the Trustee under the Indenture. In view of such pledge and assignment, (i) the Notes shall be issued and delivered to, registered in the name of and held by the Trustee for the benefit of the Bondholders and in no respect shall the Notes be deemed to be owned or held by or for the account, benefit or interest of the Borrower; (ii) the Senior Notes Indenture shall provide that the Trustee shall not sell, assign or transfer the Notes except to a successor trustee under the

Indenture, and shall surrender Notes to the Notes Trustee in accordance with the provisions of subsection (d) of this Section 4.6; and (iii) the Borrower may take such actions as it shall deem to be desirable to effect compliance with such restrictions on transfer, including the placing of an appropriate legend on each Note and the issuance of stop-transfer instructions to the Notes Trustee or any other transfer agent under the Senior Notes Indenture.

(d) At the time any Bonds cease to be outstanding (other than by reason of the payment or redemption of Notes), the Authority shall cause the Trustee to surrender to the Notes Trustee a corresponding principal amount of Notes, bearing interest at a rate equal to the interest rate borne by such Bonds, and maturing on the same date as such Bonds.

(e) The Trustee, as a holder of the Notes, shall have and exercise the remedies provided under the Senior Notes Indenture for holders of notes issued thereunder. To the extent that moneys recovered under the Senior Notes Indenture are insufficient to pay in full the Payments, the Borrower shall remain liable for any such deficiency under the terms of Section 4.4.

## **ARTICLE V**

### **NON-ARBITRAGE**

#### **SECTION 5.1 Covenants as to Arbitrage.**

The Borrower hereby agrees to prepare or to have prepared and provided, instructions to the Trustee as to the investment and reinvestment of moneys held as part of any fund or account relating to the Bonds. Any such moneys so held as part of any fund or account shall be invested or reinvested by the Trustee in Permitted Investments as specified in Section 4.3 of the Indenture. The Borrower hereby covenants that it will comply with the terms of the Tax Certificate and that it will make such use of the proceeds of the Bonds and all other funds held by the Trustee under the Indenture, regulate the investment of such proceeds and other funds and take such other and further action as may be required so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code and the regulations promulgated thereunder. The Borrower agrees that it will comply with the terms of any letter of instructions provided to it by nationally recognized bond counsel relating to compliance with the provisions of Section 148 of the Code.

If the Borrower determines that it is necessary to restrict or limit the yield on the investment of any money paid to or held by the Trustee hereunder or under the Indenture in order to avoid classification of the Bonds as arbitrage bonds within the meaning of the Code, the Borrower may issue to the Trustee an instrument to such effect (along with appropriate written instructions) instructing the Trustee which investments to invest in so as to restrict or limit the yield of such moneys.

ARTICLE VI

CERTAIN COVENANTS

SECTION 6.1 Covenants Regarding the Projects.

(a) The Borrower expressly covenants and agrees:

(i) That the Authority and its duly authorized agents shall have the right at any reasonable time upon not less than three day's prior written notice to inspect the Projects in a manner which will not interfere unreasonably with the Borrower's use thereof;

(ii) That it shall maintain or cause to be maintained the Projects in good operating order and condition, reasonable and ordinary wear and tear alone excepted, and make all necessary repairs thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen, and otherwise to make all replacements, alterations, improvements and modifications to the Projects necessary to ensure that the same at all times shall be suitable for the efficient operation thereof for the purpose intended;

(iii) That it shall have full and sole responsibility for the condition, repair, replacement, maintenance and management of the Projects; provided, however, no such condition, repair, replacement, maintenance and management shall be made to any inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary portions of the Projects; and

(iv) That, subject to its obligations and rights to maintain, repair or remove portions of the Projects as provided by this Section 6.1, it will use commercially reasonable efforts to continue operation of the Projects so long as and to the extent that operation thereof is, in the judgment of the Borrower, in the Borrower's best interest.

(b) The Authority and Borrower expressly covenant and agree that the Borrower shall have the right from time to time to substitute personal property or fixtures for any portions of the Projects. Any such substituted property or fixtures shall, when so substituted, become a part of the Projects. The Borrower shall also have the right to remove any portions of the Projects, without substitution therefor.

(c) If, during the term of this Agreement, the Projects or any substantial portion thereof is destroyed or damaged in whole or in part by fire or other casualty, or title to, or the temporary use of, the Projects or any portion thereof shall have been taken by the exercise of the power of eminent domain, the Borrower shall (unless it shall have exercised its option to prepay the Bonds pursuant to the Indenture) promptly repair, rebuild or restore the portion of the Projects so damaged, destroyed or taken with such changes, alterations and modifications (including the substitution and addition of other property) as may be necessary or desirable for the administration and operation of the

Projects and as shall not impair the character or significance of the Projects as furthering the purposes of the Act.

Nothing in this Section 6.1 shall prevent or restrict the Borrower, in its sole discretion, at any time, from discontinuing or suspending either permanently or temporarily its use of any facility of the Borrower served by the Projects and in the event such discontinuance or suspension shall render unnecessary the continued operation of the Projects, the Authority and the Borrower agree that the Borrower shall have the right to discontinue the operation of the Projects during the period of any such discontinuance or suspension.

SECTION 6.2 Environmental Covenants.

(a) The Borrower shall not engage in any activities relating to the Projects that will result in the material violation of any current or future Environmental Regulations. The Borrower shall obtain from time to time all permits required under any current or future environmental laws so that its operation of the Projects will be in accordance with such laws, except where the failure to so obtain would not result in a material adverse effect on the Projects or the Borrower's ability to meet its obligations hereunder.

(b) The Borrower shall indemnify the Trustee and the Authority and shall hold the Trustee and the Authority harmless from, and shall reimburse the Trustee and the Authority for, any and all claims, demands, judgments, penalties, liabilities, costs or damages imposed upon and out-of-pocket expenses incurred, including court costs and reasonable attorneys' fees directly or indirectly incurred by the Trustee or the Authority (prior to trial, at trial and on appeal) in any action against or involving the Trustee or the Authority, resulting from any breach of Section 6.2(a), or from the discovery of any Hazardous Substance, in, upon, under or over, or emanating from, the Projects, whether or not the Borrower is responsible therefor, it being the intent of the Borrower that the Trustee and the Authority shall have no liability or responsibility for damage or injury to human health, the environment or natural resources caused by, for abatement and/or clean-up of, or other with respect to, Hazardous Substances by virtue of their interests, if any, in the Projects created by the Indenture and this Agreement or otherwise, or hereafter created, or as the result of the Trustee or the Authority exercising any instrument, including but not limited to becoming the owner thereof. The foregoing covenants shall be deemed continuing covenants for the benefit of the Trustee and the Authority and any successors and assigns thereof, including but not limited to any transferee of the title of the Trustee and any subsequent owner of the Projects, and shall survive the satisfaction and release of the Indenture and this Agreement, or under any other instrument.

(c) In case any action or proceeding is brought against the Authority or the Trustee in respect of which indemnity may be sought under this Section 6.2, the party seeking indemnity promptly shall give notice of that action or proceeding to the Borrower, and the Borrower, upon receipt of such notice, shall have the obligation and the right to assume the defense of the action or proceeding; provided, that failure of a party to give such notice shall not relieve the Borrower from any of its obligations under this Section 6.2 unless such failure prejudices the defense of the action or proceeding by

the Borrower. The Borrower agrees that in the case of any action or proceeding involving the Authority or the Trustee, any counsel employed by the Borrower shall be reasonably acceptable to the Authority and Trustee. At its own expense, an indemnified party may employ separate counsel and participate in the defense; provided, however, where it is ethically inappropriate for one firm to represent the interests of the Authority and any other indemnified party or parties, the Borrower shall pay such indemnified party's reasonable legal expenses in connection with its retention of separate counsel. The Borrower shall not be liable for any settlement made without its written consent.

SECTION 6.3 Indemnification.

The Borrower further expressly covenants and agrees:

(a) That it shall indemnify and hold harmless the Authority and its directors, officers, agents and employees (collectively, the "**Authority Indemnitees**") from and against any and all liabilities, claims, costs and reasonable out-of-pocket expenses imposed upon or asserted against the Authority Indemnitees on account of (i) any loss or damage to property or injury to or death of or loss by any Person that may be occasioned by any cause whatsoever pertaining to the maintenance, operation and use of the Projects; (ii) any breach or default on the part of the Borrower in the performance of any covenant or agreement of the Borrower under this Agreement or any related document, or arising from any act or failure to act by the Borrower, or any of its agents, contractors, servants, employees or licensees; (iii) the authorization, issuance and sale of the Bonds, and the provision of any information furnished in connection therewith concerning the Projects or the Borrower (including, without limitation, any information furnished by the Borrower for inclusion in any certifications made by the Authority or for inclusion in, or as a basis for preparation of, the information statements filed by the Authority pursuant to the Code or otherwise included in the Preliminary Official Statement or the Official Statement relating to the Bonds (except for information regarding the Authority)); and (iv) any claim or action or proceeding with respect to the matters set forth in clauses (i), (ii) and (iii) above brought thereon. The Borrower shall not be liable for any of the foregoing arising from the Authority Indemnitee's gross negligence or bad faith;

(b) That it shall indemnify and hold harmless the Trustee and its directors, officers, agents and employees (collectively, the "**Trustee Indemnitees**") from and against any and all liabilities, losses, damages, fines, suits, actions, demands, penalties, costs and reasonable expenses, including out-of-pocket, incidental expenses, legal fees and expenses and the costs and expenses defending or preparing to defend against any claim ("**Losses**") that may be imposed on, incurred by, or asserted against, the Trustee Indemnitees or any of them for following any instruction or other direction upon which the Trustee is authorized to rely pursuant to the terms of this Agreement and the Indenture. In addition to and not in limitation of the immediately preceding sentence, the Borrower also covenants and agrees to indemnify and hold the Trustee Indemnitees and each of them harmless from and against any and all Losses that may be imposed on, incurred by, or asserted against the Trustee Indemnitees or any of them in connection with or arising out of the Trustee's performance under this Agreement and the Indenture provided the Trustee has not acted with negligence or engaged in willful misconduct.

The provisions of this Section 6.3(b) shall survive the termination of this Agreement and the Indenture, the defeasance of the Bonds and the resignation or removal of the Trustee for any reason; and

(c) In case any action or proceeding brought against the Authority and the Trustee in respect of which indemnity may be sought under this Section 6.3, the party seeking indemnity promptly shall give notice of that action or proceeding to the Borrower, and the Borrower, upon receipt of such notice, shall have the obligation and the right to assume the defense of the action or proceeding; provided, that failure of a party to give such notice shall not relieve the Borrower from any of its obligations under this Section 6.3 unless such failure prejudices the defense of the action or proceeding by the Borrower. The Borrower agrees that in the case of any action or proceeding involving the Authority or the Trustee, any counsel employed by the Borrower shall be reasonably acceptable to the Authority and Trustee. At its own expense, an indemnified party may employ separate counsel and participate in the defense; provided, however, where it is ethically inappropriate for one firm to represent the interests of the Authority and any other indemnified party or parties, the Borrower shall pay such indemnified party's reasonable legal expenses in connection with the its retention of separate counsel. The Borrower shall not be liable for any settlement made without its written consent.

#### SECTION 6.4 Compliance with Continuing Disclosure.

The Borrower has executed the Continuing Disclosure Agreement and has agreed to comply timely with the requirements set forth therein. The Borrower shall cause copies of any filings and/or disclosures that are required to be made pursuant to the terms of the Continuing Disclosure Agreement to be delivered to the Authority within five days of any such filing or disclosure.

#### SECTION 6.5 Covenants, Representations and Warranties Relating to Federal Income Taxation.

The Borrower covenants that it shall make such use of the proceeds of the Bonds, regulate investment of proceeds thereof and take such other and further actions as may be required by the Code and applicable temporary, proposed and final Regulations and procedures, necessary to assure that Interest on the Bonds is excludable from gross income for Federal income tax purposes. Without limiting the generality of the foregoing covenant, the Borrower hereby covenants, represents and warrants, as follows:

(a) The Borrower will not take, fail to take or permit the commission of any action within its control necessary to be taken in order that interest on the Bonds will continue to be excludable from gross income for Federal income tax purposes;

(b) The Borrower will timely file a statement with the United States Internal Revenue Service setting forth the information required pursuant to Section 149(e) of the Code;

(c) The average term of the Bonds, calculated in proportion to the "issue price" (as defined in Section 1273 of the Code) of the Bonds of each stated maturity of

such Bonds, will not exceed 120% of the average reasonably expected economic life of the Projects financed with the proceeds of the Bonds or the investment earnings thereon, weighted in proportion to the respective cost of each item comprising the Projects financed with the proceeds of such Bonds. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the later of (i) the date on which the Bonds are issued or (ii) the date on which such property is placed in service (or expected to be placed in service);

(d) The Borrower will not cause the Bonds to be treated as “federally guaranteed” obligations within the meaning of Section 149(b) of the Code (as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to “federally guaranteed” obligations described in Section 149(b) of the Code);

(e) Based upon all facts and estimates now known or reasonably expected to be in existence on the date the Bonds are delivered, the Borrower reasonably expects that the proceeds of the Bonds will not be used in a manner that would cause the Bonds or any portion thereof to be an “arbitrage bond” within the meaning of Section 148 of the Code;

(f) As provided in Section 5.1 hereof, the Borrower will monitor or cause to have monitored the yield on the investment of the proceeds of the Bonds and moneys pledged to the repayment of the Bonds, other than amounts not subject to yield restriction and will restrict the yield on such investments to the extent required by the Code or the Regulations;

(g) The Borrower agrees to comply with all its covenants and agreements set forth in the Tax Certificate executed in connection with the issuance and sale of the Bonds, and to perform the covenants and duties imposed on it contained therein;

(h) The Borrower agrees that it will cause not less than 95% of the Net Proceeds of the Bonds to be expended to pay, or reimburse the Borrower for, Costs of the Project which constitute Qualified Project Costs. The Borrower further agrees that the amount of costs of issuance of the Bonds financed by the Net Proceeds of the Bonds shall not exceed 2% of the principal amount of the Bonds;

(i) The Borrower agrees that less than 25% of the Net Proceeds of the Bonds are to be or will be used (directly or indirectly) for the acquisition of land (or an interest therein), and no portion of the Net Proceeds of the Bonds is to be used (directly or indirectly) for the acquisition of land (or an interest therein) to be used for farming purposes;

(j) The Borrower agrees that no portion of the Net Proceeds of the Bonds is to be or will be used for the acquisition of any property (or an interest therein) unless the first use of such property is pursuant to such acquisition; and

(k) The Borrower agrees that no portion of the Net Proceeds of the Bonds is to be used to provide any airplane, skybox or other private luxury box, health club facility,

facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

All officers, employees and agents of the Borrower are authorized and directed to provide certifications of facts and estimates that are material to the reasonable expectations of the Borrower as of the date the Bonds are delivered. In complying with the foregoing covenants, the Borrower may rely from time to time upon a written opinion issued by Bond Counsel to the effect that any action by the Borrower or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Bonds to be includable in gross income for federal income tax purposes under existing law.

SECTION 6.6 Reliance.

The Authority may rely conclusively on the truth and accuracy of any document furnished to it by the Trustee, the Borrower or any Bondholder as to a matter required to be noticed by the Authority hereunder. The Authority shall not be under any obligation to perform any recordkeeping or to provide any legal service, it being understood that such services shall be performed or caused to be performed by the Trustee or the Borrower.

SECTION 6.7 No Violations of Law.

In no event shall this Agreement be construed as depriving the Authority of any right or privilege or requiring the Authority or any agent, employee, representative or advisor of the Authority to take or omit to take, or to permit or suffer the taking of, any action by itself or by anyone else, which deprivation or requirement would violate or result in the Authority's being in violation of the Act or any other applicable state or federal law. At no time and in no event will the Borrower permit, suffer or allow any of the proceeds of this Agreement or the Bonds to be transferred to any Person in violation of, or to be used in any manner that is prohibited by, the Act, the GO Zone Act or any other state or federal law.

SECTION 6.8 Immunity of Officers, Employees and Members of the Authority.

No recourse shall be had for the payment of the principal of, premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in this Agreement against any past, present or future officer, director, member, employee or agent of the Authority, or of any successor public corporation, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, members, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement and the issuance of such Bonds.

**ARTICLE VII**

**ASSIGNMENT**

**SECTION 7.1 Assignment of this Agreement.**

The rights of the Borrower under this Agreement may be assigned as a whole or in part with the prior written approval of the Authority but no such assignment shall constitute a release of the Borrower from its obligations hereunder.

Each transferee of the Borrower's interest in this Agreement shall assume the obligations of the Borrower hereunder to the extent of the interest assigned or sold, and the Borrower shall, not more than 60 nor less than 30 days prior to the effective date of any such assignment or sale, furnish or cause to be furnished to the Authority and the Trustee a true and complete copy of each such assignment or sale.

**SECTION 7.2 Restrictions on Transfer of Authority's Rights.**

The Authority agrees that, except for the assignment of certain of its rights, title and interest under this Agreement (including its rights to receive payments to be made hereunder) to the Trustee pursuant to the Indenture, it will not during the term of this Agreement sell, assign, transfer or convey its interests in this Agreement except pursuant to the Indenture and as hereinafter in Section 7.3 provided.

**SECTION 7.3 Assignment by the Authority.**

It is understood, agreed and acknowledged that the Authority will assign to the Trustee pursuant to the Indenture certain of its rights, title and interests in and to this Agreement (reserving its rights, however, pursuant to sections of this Agreement providing that notices, reports and other statements be given to the Authority and also reserving its rights to reimbursement and payment of costs and expenses under Section 4.3 hereof and its individual and corporate rights to exemption from liability under Section 10.13 hereof and the Borrower hereby assents to such assignment and pledge.

**ARTICLE VIII**

**SUPPLEMENTS AND AMENDMENTS**

**SECTION 8.1 Amendment Without Consent.**

The Authority and the Borrower, with the consent of the Trustee with respect to Sections 8.1(d) and 8.1(e) hereof, but without the consent of the owners of any of the Outstanding Bonds, may enter into supplements to this Agreement which shall not be inconsistent with the terms and provisions hereof for any of the purposes heretofore specifically authorized in this Agreement or the Indenture, and in addition thereto for the following purposes:

(a) to cure any ambiguity or formal defect, inconsistency or provide omitted language in this Agreement or to clarify matters or questions arising hereunder;

- (b) to add covenants and agreements for the purpose of further securing the obligations of the Borrower hereunder;
- (c) to confirm as further assurance any mortgage or pledge of additional property, revenues, securities or funds;
- (d) to conform the provisions of this Agreement in connection with the provisions of any supplements or amendments to the Indenture entered into pursuant to the provisions of Section 10.1 thereof;
- (e) to provide any other modifications which, in the sole judgment of the Trustee, are not prejudicial to the interests of the Bondholders; or
- (f) to conform the covenants and provisions of the Borrower contained herein to any different financial statement presentation required by the Financial Accounting Standard Board which is different than the presentation required as of the date of issuance of the Bonds, so long as the effect of such conformed covenants and provisions is substantially identical to the effect of the covenants and provisions as in effect on the date of issuance of the Bonds.

SECTION 8.2 Amendment Upon Approval of a Majority of Bondholders.

The provisions of this Agreement may be amended in any particular manner with the written consent of the owners of not less than a majority in aggregate principal amount of the then Outstanding Bonds; provided, however, that no such amendment may be adopted which decreases the percentage of owners of Bonds required to approve any amendment, or which permits a change in the date of payment of the principal of or interest on any Bonds or of any redemption price thereof or the rate of interest thereon.

If at any time the Authority and the Borrower shall request the Trustee to consent to a proposed amendment for any of the purposes of this Section 8.2, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such proposed amendment to be given in the manner required by the Indenture to redeem Bonds. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Bondholders. If, within 90 days or such longer period as shall be prescribed by the Authority following such notice, the owners of not less than a majority in aggregate principal amount of the Outstanding Bonds at the time of the execution of any such proposed amendment shall have consented to and approved the proposed amendment as herein provided, no owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee, the Borrower or the Authority from executing or approving the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such proposed amendment as in this Section permitted and provided, this Agreement shall be and be deemed to be modified and amended in accordance therewith.

SECTION 8.3 Filing.

Copies of any such supplement or amendment shall be filed with the Trustee and delivered to the Authority and the Borrower before such supplement or amendment may become effective.

SECTION 8.4 Reliance on Counsel.

The Authority and the Trustee shall be entitled to receive, and shall be fully protected in relying upon the opinion of counsel satisfactory to the Trustee, who may be counsel for the Authority, as conclusive evidence that any such proposed supplement or amendment complies with the provisions of this Agreement and the Indenture and that it is proper for the Authority and the Trustee under the provisions of this Article to execute or approve such supplement or amendment.

In connection with any amendment of this Agreement, there shall also be delivered to the Authority and the Trustee a written opinion of Bond Counsel (which counsel and opinion, including without limitation, the scope, form, substance and other aspects thereof, are acceptable to the Trustee) to the effect that under existing laws the proposed supplement or amendment would not adversely affect the validity of the Bonds or the exclusion otherwise available from gross income of interest on the Bonds for federal or state income tax purposes.

**ARTICLE IX**

**EVENTS OF DEFAULT; REMEDIES**

SECTION 9.1 Events of Default Defined.

The terms “**Event of Default**” and “**Default**” shall mean any one or more of the following events:

- (a) An Event of Default shall exist under the Indenture, the Notes or the Senior Notes Indenture;
- (b) The Borrower shall default in the timely payment of any Payment pursuant to Article IV of this Agreement; provided that such default with respect to an Interest Payment shall be deemed to occur upon the continuance of any such failure of payment for a period of 30 days after the applicable Interest Payment Date;
- (c) The Borrower shall fail duly to perform, observe or comply with any other covenant, condition or agreement on its part under this Agreement (other than a failure to make any Payment required under this Agreement), and such failure continues for a period of 30 days after the date on which written notice of such failure, requiring the same to be remedied, shall have been given to the Borrower by the Trustee; provided, however, that if such performance, observation or compliance requires work to be done, action to be taken, or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied, as the case may be, within such 30 day period, no Event of Default shall be deemed to have occurred or to exist if, and so long as the Borrower shall

commence such performance, observation or compliance within such period and shall diligently and continuously prosecute the same to completion;

(d) The entry of a decree or order by a court having jurisdiction in the premises adjudging the Borrower a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a receiver, liquidator, custodian, assignee, or sequestrator (or other similar official) of the Borrower or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for it period of 90 consecutive days; and

(e) The institution by the Borrower of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under the United States Bankruptcy Code or any other similar applicable federal or state law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, custodian, assignee, trustee or sequestrator (or other similar official) of the Borrower or of any substantial part of its property, or the making by it of all assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due.

#### SECTION 9.2 Remedies.

Whenever any Event of Default under Section 9.1 hereof shall have happened and be continuing, any one or more of the following remedial steps may be taken:

(a) The Authority or the Trustee may declare all Payments under Section 4.2 hereof to be immediately due and payable, whereupon the same shall become immediately due and payable;

(b) The Authority or the Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the Payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement;

(c) The Authority or the Trustee may have access to and inspect, examine and make copies of any and all books, accounts and records of the Borrower; and

(d) The Authority or the Trustee (or the owners of the Bonds in the circumstances permitted by the Indenture) may exercise any option and pursue any remedy provided by the Indenture.

Payments under subsections (a) and (b) of this Section 9.2 shall be deemed to have been made to the extent of any corresponding payments by the Borrower upon an Event of Default (as defined in the Senior Notes Indenture) under the Notes.

**SECTION 9.3 No Remedy Exclusive; Selective Enforcement.**

No remedy conferred upon or reserved to the Authority or the Trustee by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement and as now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any event of nonperformance shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**SECTION 9.4 Indenture Overriding.**

All of the provisions of this Article are subject to and subordinate to the rights and remedies of the Bondholders and the Trustee pursuant to the Indenture. The Authority shall have no power to waive any event of default hereunder, except with respect to indemnification and its administrative payments, without the consent of the Trustee to such waiver.

**SECTION 9.5 Agreement to Pay Attorneys' Fees and Expenses.**

In any Event of Default, if the Authority or the Trustee employs attorneys or incurs other expenses to collect any amounts payable hereunder or to enforce the performance or observance of any covenants or agreements in the event of a breach of this Agreement by the Borrower, the Borrower agrees that it will on demand therefor pay to the Authority or the Trustee the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Authority or the Trustee.

**SECTION 9.6 Authority and Borrower to Give Notice of Default.**

The Authority and the Borrower covenant that they will, at the expense of the Borrower, promptly give to the Trustee written notice of any Event of Default under this Agreement of which they shall have actual knowledge or written notice, but the Authority shall not be liable (except as otherwise expressly provided herein) for failing to give such notice.

**SECTION 9.7 Correlative Waivers.**

If an Event of Default under Section 7.2 of the Indenture shall be cured or waived and any remedial action by the Trustee rescinded, any correlative Default under this Agreement shall be deemed to have been cured or waived.

**ARTICLE X**

**MISCELLANEOUS**

**SECTION 10.1 References to the Bonds Ineffective After Bonds Paid.**

Upon payment of the Bonds by the Authority in accordance with the Indenture, all references in this Agreement to the Bondholders shall be ineffective and the Authority and any

holder of the Bonds shall not thereafter have any rights hereunder, excepting those that shall have theretofore vested.

SECTION 10.2 Amounts Remaining in Funds.

It is agreed by the parties hereto that any amounts remaining in the funds and accounts existing pursuant to the Indenture upon the expiration or sooner cancellation or termination of this Agreement, as provided herein, after payment in full of all Bonds then outstanding under the Indenture (or provisions for payment thereof having been made in accordance with the provisions of the Indenture), and the fees, charges and expenses of the Authority and the Trustee and all other amounts required to be paid hereunder and under the Indenture (other than amounts payable as arbitrage rebate pursuant to the Code), shall belong to and be paid to the Borrower in accordance with Sections 4.12 and 4.13 of the Indenture.

SECTION 10.3 Notices.

All notices, demands and requests to be given or made hereunder to or by the Authority, the Trustee or the Borrower or their designated successors, shall be in writing and shall be properly made if hand delivered or sent by United States mail, postage prepaid and addressed as follows:

If to the Authority: Louisiana Local Government Environmental Facilities and Community Development Authority  
8712 Jefferson Highway, Suite A  
Baton Rouge, Louisiana 70809  
Attention: Executive Director

If to the Borrower: Westlake Chemical Corporation  
2801 Post Oak Blvd., Suite 600  
Houston, Texas 77056  
Attention: Chief Financial Officer

If to the Trustee: The Bank of New York Trust Company, N.A.  
601 Travis Street, 18th Floor  
Houston, Texas 77002  
Attention: Corporate Trust Department

Notice hereunder shall be deemed effective on the date of its receipt by the addressee. The Borrower, the Authority and the Trustee may, by notice given hereunder, designate any further or different addresses, counsel or counsel addresses to which subsequent notices, certificates, requests or other communications shall be sent.

SECTION 10.4 Binding Effect.

This Agreement shall inure to the benefit of and shall be binding upon the Authority, the Borrower and their respective successors and assigns, subject to the limitation that any obligation of the Authority created by or arising out of this Agreement shall not be a general debt of the

Authority, but shall be payable solely out of the proceeds derived from this Agreement and the sale of the Bonds under the Indenture.

SECTION 10.5 Performance on Legal Holidays.

In any case where the date of maturity of interest on or principal of the Bonds or the date fixed for redemption or purchase of any Bonds or the date fixed for the giving of notice or the taking of any action under this Indenture shall not be a Business Day, then payment of such interest, principal, purchase price and redemption premium, if any, the giving of such notice or the taking of such action need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption or purchase, and no interest on such payment shall accrue for the period after such date.

SECTION 10.6 Execution In Counterparts.

This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

SECTION 10.7 Governing Law.

This Agreement shall be deemed to be a contract made under the laws of the State of Louisiana and for all purposes shall be governed exclusively by and construed in accordance with the laws of the State of Louisiana.

SECTION 10.8 Severability.

If any clause, provision, section or article of this Agreement be held illegal or invalid by any court, the invalidity of such clause, provision, section or article shall not affect any of the remaining clauses, provisions, sections or articles hereof and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision, section or article had not been contained herein. In case any agreement or obligation contained in this Agreement be held to be in violation of law, then such agreement or obligation shall be deemed to be the agreement or obligation of the Authority or the Borrower, as the case may be, only to the extent permitted by law.

SECTION 10.9 Captions.

The table of contents, captions or headings of the several articles and sections of this Agreement are for convenience only and shall not control, affect the meaning of or be taken as an interpretation of any provisions of this Agreement.

SECTION 10.10 Consents and Approvals.

Whenever the consent or approval of the Authority, the Borrower or the Trustee shall be required under the provisions of this Agreement, such consent or approval shall not be unreasonably withheld or delayed.

SECTION 10.11 Obligations.

The obligations of the Borrower under this Agreement constitute unsecured, general obligations of the Borrower.

SECTION 10.12 Third Party Beneficiaries.

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to make any Person not a party to this Agreement, except as expressly provided herein or as contemplated in the Indenture, a third party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The duties, obligations and responsibilities, if any, of the parties to this Agreement with respect to third parties shall remain as imposed by law.

SECTION 10.13 Exculpatory Provision.

In the exercise of the powers of the Authority, the Trustee and their respective trustees, directors, officers, employees and agents (each, an **"Indemnified Party"**) under this Agreement, each Indemnified Party shall not be accountable or liable to the Borrower for any actions taken or omitted by such Indemnified Party in good faith and believed by it or them to be authorized or within their discretion or rights or powers conferred upon them (other than the negligence or willful misconduct of such Indemnified Party), all such liability, if any, being expressly waived by the Borrower by the execution of this Agreement. The Borrower shall indemnify and hold harmless each Indemnified Party against any claim or liability based on the foregoing asserted by any other Person.

In case any action shall be brought against an Indemnified Party in respect of which indemnity may be sought against the Borrower, such Indemnified Party shall promptly notify the Borrower in writing and the Borrower shall assume the defense thereof, including the employment of counsel of the Borrower's choice and the payment of all expenses. Such Indemnified Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be paid by such Indemnified Party unless the employment of such counsel has been authorized by the Borrower. The Borrower shall not be liable for any settlement of any such action without its consent but if any such action is settled with the consent of the Borrower or if there be final judgment for the plaintiff of any such action, the Borrower agrees to indemnify and hold harmless such Indemnified Party from and against any loss or liability by reason of such settlement or judgment.

SECTION 10.14 Accounts and Audits.

The Authority shall cause the Trustee to keep proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Bonds.

SECTION 10.15 Date of Loan Agreement.

The dating of this Agreement as of November 1, 2007 is intended as and for the convenient identification of this Agreement and is not intended to indicate that this Agreement was executed and delivered on said date, this Agreement being executed on the date of issuance of the Bonds.

IN WITNESS WHEREOF, the Authority has caused this Agreement to be executed by its Chairman and has caused the seal of the Authority to be affixed hereto and attested by its Executive Director, and the Borrower has caused this Agreement to be executed by a duly authorized officer, as of the 1st day of November, 2007.

**LOUISIANA LOCAL GOVERNMENT ENVIRONMENTAL FACILITIES  
AND COMMUNITY DEVELOPMENT AUTHORITY**

By: /s/ Steve A. Dicharry  
Executive Director

ATTEST:

By: /s/ Linda V. D'Antoni  
Assistant Secretary

[SEAL]

**WESTLAKE CHEMICAL CORPORATION**

By: /s/ Albert Chao  
Name: Albert Chao  
Title: President & Chief Executive Officer

Please see "Certain Definitions" (beginning on page 27) for capitalized terms used in "The Loan Agreement" and "The Notes and The Senior Notes Indenture" but not defined in such sections.

## THE LOAN AGREEMENT

The following summarizes certain provisions of the Loan Agreement, dated as of November 1, 2007 (the "Agreement"), by and among the Louisiana Local Government Environmental Facilities and Community Development Authority (the "Authority") and Westlake Chemical Corporation (the "Borrower"), to which reference is made for the detailed provisions thereof.

### Payments by the Borrower under the Agreement

Pursuant to the Agreement, the Borrower will be required to make payments ("Payments") to the Trustee (as defined below), under the Trust Indenture, dated as of November 1, 2007 (the "Indenture"), by and between the Authority and The Bank of New York Trust Company, N.A. (the "Trustee"), which will be sufficient to pay when due the principal of, premium, if any, and interest on the Authority's \$250 million aggregate principal amount of Revenue Bonds (Westlake Chemical Corporation Projects), Series 2007 due November 1, 2032 (the "Bonds").

The Borrower will also pay as special Payments:

(i) "Change of Control Payment" being an amount sufficient for the payment in full in satisfaction of a Change of Control Offer. The Change of Control Payment with respect to the Bonds will be payable directly to the Trustee for the account of the Borrower Designee on the Change of Control Payment Date.

(ii) "Asset Sale Payment" being an amount sufficient for the payment in full in satisfaction of an Asset Sale Offer (as defined in the Senior Notes Indenture). The Asset Sale Payment with respect to the Bonds will be payable directly to the Trustee for the account of the Borrower on the completion of the Asset Sale Offer.

The Agreement also provides that the Borrower will pay the reasonable and necessary fees and expenses of the Trustee and any paying agents and any reasonable and necessary fees and expenses of the Authority caused by any default of the Borrower under the Agreement.

### Obligations of the Borrower Unconditional

The obligation of the Borrower to make Payments pursuant to the Agreement, will be absolute and unconditional.

### Prepayment and Redemption

The Borrower will have the option to prepay its obligations under the Agreement at the times and in the amounts as necessary to exercise its option to cause the Bonds to be redeemed as set forth in the Indenture and in the Bonds. The Borrower will agree that it will prepay its obligations under the Agreement at the times and in the amounts as necessary to accomplish the extraordinary mandatory redemption of the Bonds as set forth in the Indenture and in the Bonds. The Authority, at the request of the Borrower, will take all steps (other than the payment of the money required for such redemption) necessary under the applicable redemption provisions of the Indenture to effect redemption of all or part of the outstanding Bonds, as may be specified by the Borrower, on the date established for such

redemption. Payments owed thereunder due to the early redemption of the Bonds will be paid to the Trustee on or prior to the date set for redemption thereof.

### **Issuance, Delivery and Surrender of Notes**

In order to secure, on behalf of the Authority, the obligation of the Borrower to make the Payments, concurrently with the issuance and delivery by the Authority of the Bonds, the Borrower will issue and deliver to the Trustee the Borrower's 6<sup>3</sup>/<sub>4</sub>% Senior Notes due 2032 (the "Notes") under the Senior Notes Indenture (i) maturing on the same date and in the same principal amount as the Bonds, (ii) bearing interest at an interest rate at all times equal to the interest rate borne by the Bonds, payable on the dates on which interest is payable on the Bonds, (iii) containing correlative redemption provisions to the Bonds, and (iv) subject to the provisions described in the following paragraph, requiring payments of the principal thereof and the premium, if any, and interest thereon to be made to the Trustee.

The obligation of the Borrower to make any payment of the principal of, premium, if any, or interest on the Notes, whether at maturity, upon redemption (including any redemption due to the occurrence of a Determination of Taxability with respect to the Bonds) or otherwise, will be fully or partially, as the case may be, deemed to have been paid or otherwise satisfied and discharged to the extent that at the time any such payment is due, the then due principal or purchase price of, premium, if any, or interest on the Bonds which corresponds to such amounts under the Notes has been fully or partially paid, deemed to have been paid or otherwise satisfied and discharged. In addition, such obligation to make any payment of the principal of, premium, if any, or interest on the Notes at any time will be deemed to have been satisfied and discharged to the extent that the amount of the Borrower's obligation to make any payment of the principal of, premium, if any, or interest on the Notes exceeds the obligation of the Borrower at that time to make any Payment.

The Authority will not attempt to sell, assign or transfer the Notes, except to the extent of the assignment and pledge thereof to the Trustee under the Indenture. In view of such pledge and assignment, (i) the Notes will be issued and delivered to, registered in the name of and held by the Trustee for the benefit of the holders of the Bonds (the "Bondholders") and in no respect will the Notes be deemed to be owned or held by or for the account, benefit or interest of the Borrower; (ii) the Senior Notes Indenture will provide that the Trustee will not sell, assign or transfer the Notes except to a successor trustee under the Indenture, and will surrender Notes to the The Bank of New York Trust Company, N.A. (as successor to JPMorgan Chase Bank, National Association), as trustee under the Senior Notes Indenture (the "Notes Trustee"), in accordance with the provisions described in the following paragraph; and (iii) the Borrower may take such actions as it deems to be desirable to effect compliance with such restrictions on transfer, including the placing of an appropriate legend on the Notes and the issuance of stop-transfer instructions to the Notes Trustee or any other transfer agent under the Senior Notes Indenture.

At the time any Bonds cease to be outstanding (other than by reason of the payment or redemption of Notes), the Authority will cause the Trustee to surrender to the Notes Trustee a corresponding principal amount of the Notes, bearing interest at a rate equal to the interest rate borne by such Bonds, and maturing on the same date as such Bonds.

The Trustee, as a holder of the Notes, will have and exercise the remedies provided under the Senior Notes Indenture for holders of notes issued thereunder. To the extent that moneys recovered under the Senior Notes Indenture are insufficient to pay in full the Payments, the Borrower will remain liable for any such deficiency under the terms of the Agreement.

## **Covenants as to Arbitrage**

The Borrower covenants that it will comply with the terms of its Tax Certificate dated the date of issuance of the Bonds and that it will make such use of the proceeds of the Bonds and all other funds held by the Trustee under the Indenture, regulate the investment of such proceeds and other funds and take such other and further action as may be required so that the Bonds will not constitute arbitrage bonds under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations promulgated thereunder. The Borrower agrees that it will comply with the terms of any letter of instructions provided to it by nationally recognized bond counsel relating to compliance with the provisions of Section 148 of the Code.

## **Assignment**

The Borrower may assign its rights under the Agreement in whole or in part with the prior written approval of the Authority, but no such assignment will constitute a release of the Borrower from its obligations under the Agreement.

## **Amendment of the Agreement**

Without the consent of Bondholders, but with the consent of the Trustee with respect to subparagraphs (d) and (e) below, the Authority and the Borrower may enter into supplements to the Agreement which are not inconsistent with the terms and provisions thereof for any of the purposes specifically authorized in the Agreement or the Indenture, and for the following purposes:

- (a) to cure any ambiguity or formal defect, inconsistency or provide omitted language in the Agreement or to clarify matters or questions arising thereunder;
- (b) to add covenants and agreements for the purpose of further securing the obligations of the Borrower thereunder;
- (c) to confirm as further assurance any mortgage or pledge of additional property, revenues, securities or funds;
- (d) to conform the provisions of the Agreement in connection with the provisions of any supplements or amendments to the Indenture entered into pursuant to the Indenture without the consent of Bondholders;
- (e) to provide any other modifications which, in the sole judgment of the Trustee, are not prejudicial to the interests of the Bondholders; or
- (f) to conform the covenants and provisions of the Borrower contained in the Agreement to any different financial statement presentation required by the Financial Accounting Standard Board which is different than the presentation required as of the date of issuance of the Bonds, so long as the effect of such conformed covenants and provisions is substantially identical to the effect of the covenants and provisions as in effect on the date of issuance of the Bonds.

The Agreement may be amended in any particular manner with the written consent of the owners of not less than a majority in aggregate principal amount of the then Outstanding Bonds; provided, however, that no such amendment may be adopted which decreases the percentage of owners of Bonds required to approve any amendment, or which permits a change in the date of payment of the principal of or interest on any Bonds or of any redemption price thereof or the rate of interest thereon.

In connection with any amendment of the Agreement, there also must be delivered to the Authority and the Trustee a written opinion of bond counsel (which counsel and opinion, including without limitation, the scope, form, substance and other aspects thereof, are acceptable to the Trustee) to the effect that under existing laws the proposed supplement or amendment would not adversely affect the validity of the Bonds or the exclusion otherwise available from gross income of interest on the Bonds for federal or state income tax purposes.

### **Events of Default**

The following events are events of default under the Agreement:

- (a) An Event of Default exists under the Indenture, the Notes or the Senior Notes Indenture;
- (b) The Borrower defaults in the timely payment of any Payment pursuant to the Agreement; provided that such default with respect to an Interest Payment will be deemed to occur upon the continuance of any such failure of payment for a period of 30 days after the applicable Interest Payment Date;
- (c) The Borrower fails duly to perform, observe or comply with any other covenant, condition or agreement on its part under the Agreement (other than a failure to make any Payment required under the Agreement), and such failure continues for a period of 30 days after the date on which written notice of such failure, requiring the same to be remedied, has been given to the Borrower by the Trustee; provided, however, that if such performance, observation or compliance requires work to be done, action to be taken, or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied, as the case may be, within such 30 day period, no Event of Default will be deemed to have occurred or to exist if, and so long as the Borrower commences such performance, observation or compliance within such period and diligently and continuously prosecutes the same to completion;
- (d) The entry of a decree or order by a court having jurisdiction in the premises adjudging the Borrower a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a receiver, liquidator, custodian, assignee, or sequestrator (or other similar official) of the Borrower or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for it period of 90 consecutive days; and
- (e) The institution by the Borrower of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under the United States Bankruptcy Code or any other similar applicable federal or state law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, custodian, assignee, trustee or sequestrator (or other similar official) of the Borrower or of any substantial part of its property, or the making by it of all assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due.

### **Remedies**

Whenever any Event of Default under the Agreement has happened and is continuing, any one or more of the following remedial steps may be taken:

(a) The Authority or the Trustee may declare all Payments to be immediately due and payable, whereupon the same will be immediately due and payable;

(b) The Authority or the Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the Payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under the Agreement;

(c) The Authority or the Trustee may have access to and inspect, examine and make copies of any and all books, accounts and records of the Borrower; and

(d) The Authority or the Trustee (or the owners of the Bonds in the circumstances permitted by the Indenture) may exercise any option and pursue any remedy provided by the Indenture.

Payments under subparagraphs (a) and (b) above will be deemed to have been made to the extent of any corresponding payments by the Borrower upon an Event of Default (as defined in the Senior Notes Indenture) under the Notes.

## THE NOTES AND THE SENIOR NOTES INDENTURE

The following summarizes certain provisions of the Notes and the Senior Notes Indenture, to which reference is made for the detailed provisions thereof.

### The Notes

The Notes will be:

- general unsecured obligations of the Borrower;
- *pari passu* in right of payment with any senior Indebtedness of the Borrower and any senior Indebtedness of the Subsidiary Guarantors, including, in each case, the Public Notes and any Indebtedness and other Obligations outstanding under a Credit Facility;
- senior in right of payment to any future subordinated Indebtedness of the Borrower;
- unconditionally guaranteed by the Subsidiary Guarantors; and
- non-transferable, except to a successor or assign of the Trustee under the Indenture.

### The Guarantees

The Borrower's payment obligations under the Notes will be unconditionally guaranteed by each of the Subsidiary Guarantors. Each of these Guarantees will be:

- general unsecured obligations of the Subsidiary Guarantors;
- *pari passu* in right of payment with any senior Indebtedness of the Borrower and any senior Indebtedness of such Subsidiary Guarantor, including the Public Notes and any Indebtedness and other Obligations outstanding under a Credit Facility; and
- senior in right of payment to any future subordinated Indebtedness of such Subsidiary Guarantor.

Not all of the Borrower's subsidiaries will guarantee the Notes. In the event of a bankruptcy, liquidation or reorganization of any of these non-guarantor subsidiaries, that non-guarantor subsidiary will pay the holders of its debt and its trade creditors before it will be able to distribute any of its assets to the Borrower. The non-guarantor subsidiaries generated 1.9% of the Borrower's consolidated net sales for the year ended December 31, 2006 and held 3.3% of the Borrower's consolidated assets as of September 30, 2007.

As of the date of the Supplemental Indenture, all of the Borrower's Subsidiaries will be "Restricted Subsidiaries," other than Westlake Trinidad Unlimited, Westlake International Investments Corporation, Westlake International Services Corporation, Suzhou Huasu Plastics Co., Ltd., Westlake Profiles Limited and Westech Building Products Limited. However, under the circumstances described below under the caption "Certain Covenants—Designation of Restricted and Unrestricted Subsidiaries," the Borrower will be permitted to designate certain subsidiaries as "Unrestricted Subsidiaries." The Borrower's Unrestricted Subsidiaries will not be subject to many of the restrictive covenants in the Senior Notes Indenture. The Borrower's Unrestricted Subsidiaries will not guarantee the Notes.

## Certain Covenants

Certain covenants will apply under the Senior Notes Indenture for the benefit of the Holder of the Notes.

### *Covenant Suspension*

During any period of time that (i) the Bonds are rated Investment Grade and (ii) no Default or Event of Default under the Senior Notes Indenture has occurred and is continuing, the Borrower and its Restricted Subsidiaries will no longer be subject to the following provisions of the Senior Notes Indenture (described below):

- “Restricted Payments”
- “Dividend and Other Payment Restrictions Affecting Subsidiaries”
- “Incurrence of Indebtedness and Issuance of Preferred Stock”
- “Asset Sales”
- “Liens” and
- Clause (4) under “Limitations on Mergers, Consolidations and Sales of Assets” (collectively, the “Affected Covenants”).

In the event that the Borrower and its Restricted Subsidiaries are not subject to the Affected Covenants for any period of time as a result of the preceding sentence and, subsequently, the Bonds are not rated Investment Grade, then the Borrower and its Restricted Subsidiaries will thereafter be subject to the Affected Covenants and compliance with respect to Restricted Payments made after the time of a rating withdrawal or downgrade will be calculated in accordance with the provisions described below under “Restricted Payments” as if such covenant had been in effect since the date of execution of the Supplemental Indenture.

### *Restricted Payments*

(a) The Borrower will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly:

(1) declare or pay any dividend or make any other distribution on account of the Borrower’s or any of its Restricted Subsidiaries’ Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Borrower or any of its Restricted Subsidiaries) or to the direct or indirect holders of the Borrower’s or any of its Restricted Subsidiaries’ Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Borrower or to the Borrower or a Restricted Subsidiary of the Borrower);

(2) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Borrower) any Equity Interests of the Borrower or any direct or indirect parent of the Borrower;

(3) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value, any Indebtedness of the Borrower or any Subsidiary Guarantor that is contractually subordinated to the Notes any Guarantee (excluding any interBorrower Indebtedness between or among the Borrower and any of its Restricted Subsidiaries), except a payment of interest or principal at or after the Stated Maturity of such interest or principal; or

(4) make any Restricted Investment in an Unrestricted Subsidiary

(all such payments and other actions set forth in these clauses (1) through (4) above being collectively referred to as "Restricted Payments"), unless, at the time of and after giving effect to such Restricted Payment:

(i) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment; and

(ii) the Borrower would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth below in the first paragraph under "Incurrence of Indebtedness and Issuance of Preferred Stock"; and

(iii) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Borrower and its Restricted Subsidiaries since the date of the Supplemental Indenture (excluding Restricted Payments permitted by clauses (2), (3), (4), (6), (7), (8), (9), (10), (11), (12) and (13) of the next full paragraph (b) below), is less than the sum, without duplication, of:

(a) 50% of the Consolidated Net Income of the Borrower for the period (taken as one accounting period) from October 1, 2003 to the end of the Borrower's most recently ended fiscal quarter for which financial statements are available in accordance with "Other Reports" below at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit); *plus*

(b) 100% of the aggregate proceeds (including the Fair Market Value of any non-cash consideration) received by the Borrower since October 1, 2003 as a contribution to its common equity capital or by the Borrower or any of its Restricted Subsidiaries from the issue or sale of Equity Interests of the Borrower (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Borrower or any of its Restricted Subsidiaries that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of the Borrower), *plus*

(c) to the extent that any Restricted Investment that was made after October 1, 2003 is sold for cash or otherwise liquidated, repaid for cash or otherwise reduced, including by way of dividend, on or before January 13, 2006 (or in the case of any Restricted Investment in any Unrestricted Subsidiary so designated after January 13, 2006, so sold, liquidated, repaid or otherwise reduced on or after January 13, 2006), the lesser of (i) the cash return of capital with respect to such Restricted

Investment (less the cost of disposition, if any) and (ii) the initial amount of such Restricted Investment, *plus*

(d) to the extent that any Unrestricted Subsidiary of the Borrower designated as such after January 13, 2006 is redesignated as a Restricted Subsidiary, the Fair Market Value of the Borrower's Investment in such Subsidiary as of the date of such redesignation, *plus*

(e) 50% of the net reduction in Investments in Unrestricted Subsidiaries designated as such January 13, 2006 or Joint Ventures resulting from any dividends, repayment of loans or other transfer of assets received by the Borrower or a Restricted Subsidiary of the Borrower after October 1, 2003 from any such Unrestricted Subsidiary or a Joint Venture, to the extent that such dividends, repayments or transfers were not otherwise included in Consolidated Net Income of the Borrower for such period.

(b) So long as no Default has occurred and is continuing or would be caused thereby, the preceding provisions will not prohibit:

(1) the payment of any dividend within 60 days after the date of declaration of the dividend, if at the date of declaration the dividend payment would have complied with the provisions of the Senior Notes Indenture;

(2) the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent issuance or sale (other than to a Subsidiary of the Borrower) of, Equity Interests of the Borrower (other than Disqualified Stock) or from the substantially concurrent contribution of common equity capital to the Borrower; *provided* that the amount of any such net cash proceeds that are utilized for any such redemption, repurchase, retirement, defeasance or other acquisition will be excluded from clause (iii)(b) of the preceding paragraph;

(3) the defeasance, redemption, repurchase or other acquisition of Indebtedness of the Borrower or any Subsidiary Guarantor that is contractually subordinated to the Notes or to any Guarantee with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness;

(4) the payment of any dividend (or, in the case of any partnership or limited liability Borrower, any similar distribution) by a Restricted Subsidiary of the Borrower to the Borrower or another Restricted Subsidiary, or the purchase, redemption, or other acquisition or retirement of any Equity Interests in a Restricted Subsidiary held by the Borrower or another Restricted Subsidiary;

(5) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Borrower or any Restricted Subsidiary of the Borrower held by any current or former officer, director or employee of the Borrower or any of its Restricted Subsidiaries pursuant to any equity subscription agreement, stock option agreement, shareholders' agreement or similar plan or agreement; *provided* that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed the greater of (i) 0.2% of Consolidated Net Tangible Assets and (ii) \$5.0 million in any twelve-month period;

(6) the repurchase of Equity Interests deemed to occur upon the exercise of stock options to the extent such Equity Interests represent a portion of the exercise price of those stock options;

(7) the declaration and payment of dividends to holders of any class or series of Disqualified Stock of the Borrower or any Restricted Subsidiary of the Borrower issued on or after the date of the Supplemental Indenture in accordance with the Fixed Charge Coverage Ratio test described under “Incurrence of Indebtedness and Issuance of Preferred Stock” below;

(8) distributions or payments of Receivables Fees;

(9) the repurchase of any Indebtedness of the Borrower or any Subsidiary Guarantor that is contractually subordinated to the Notes or to any Guarantee at a purchase price not greater than 101% of the principal amount thereof in the event of (x) a Change of Control (pursuant to a provision no more favorable to the holders thereof than the provision described under “Change of Control” below) or (y) an Asset Sale (pursuant to a provision no more favorable to the holders thereof than the provision described under “Asset Sales” below); *provided* that in each case, prior to such repurchase the Borrower has made a Change of Control Offer or Asset Sale Offer, as applicable, and repurchased all Notes that were validly tendered for payment in connection with such Change of Control Offer or Asset Sale Offer;

(10) the payment of dividends on common stock of the Borrower at a rate not to exceed \$0.20 per share per quarter (such amount to be appropriately adjusted to reflect any stock split, reverse split, stock dividend or similar transaction made after the date of execution of the Supplemental Indenture so that the aggregate amount of dividends payable after such transaction is the same as the amount payable prior to such transaction);

(11) dividends or distributions on account of the Equity Interests of a Restricted Subsidiary made to its equityholders on either a *pro rata* basis or on a basis more favorable to either the Borrower or a Restricted Subsidiary of the Borrower;

(12) Investments in Unrestricted Subsidiaries; *provided* that, to the extent such Investment consists of the direct or indirect transfer or contribution of Domestic Assets (including, without limitation, (i) due to the designation of a Restricted Subsidiary as an Unrestricted Subsidiary in accordance with the terms of the Senior Notes Indenture and (ii) the transfer of equity in a Restricted Subsidiary to the extent it and its Restricted Subsidiaries own Domestic Assets) (a “Domestic Investment”), the aggregate Fair Market Value at the time of Investment of all such Domestic Investments outstanding at any one time permitted by this clause (12) shall not exceed 10% of Total Assets (after giving effect to any dividends, return of capital and subsequent reduction in the amount of any Investments made pursuant to this clause (12) as a result of the repayment or other disposition thereof, or upon designation of an Unrestricted Subsidiary as a Restricted Subsidiary, the fair market value of such Subsidiary to the extent the Investment in such Subsidiary was made pursuant to this clause (12), in an amount not to exceed the amount of such Investments previously made pursuant to this clause (12); and

(13) other Restricted Payments in an aggregate amount not to exceed the greater of (i) 5.0% of Consolidated Net Tangible Assets and (ii) \$100.0 million outstanding at any time.

(c) The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or

issued by the Borrower or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The Fair Market Value of any assets or securities of \$50.0 million or greater that are required to be valued by this covenant will be determined by the Board of Directors whose resolution with respect thereto will be delivered to the Trustee.

(d) For purposes of this section, "substantially concurrent" will be deemed to mean within at least 45 days.

*Dividend and Other Payment Restrictions Affecting Subsidiaries*

The Borrower will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

- (1) pay dividends or make any other distributions on its Capital Stock to the Borrower or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to the Borrower or any of its Restricted Subsidiaries;
- (2) make loans or advances to the Borrower or any of its Restricted Subsidiaries; or
- (3) transfer any of its properties or assets to the Borrower or any of its Restricted Subsidiaries.

The preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

- (1) agreements governing Existing Indebtedness and Credit Facilities as in effect on the date of the Supplemental Indenture and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of those agreements; *provided* that the amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the date of the Supplemental Indenture;
- (2) the Senior Notes Indenture, the Notes and the related Guarantees;
- (3) applicable law, rule, regulation or order;
- (4) any agreement or instrument governing Indebtedness or Capital Stock of a Person as in effect at the time of the acquisition by the Borrower or any of its Restricted Subsidiaries of such Person or the properties or assets of such Person (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of the Senior Notes Indenture to be incurred;
- (5) customary non-assignment provisions in contracts and leases entered into in the ordinary course of business;

(6) construction loans and purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property constructed, purchased or leased of the nature described in clause (4) in the second paragraph under “Incurrence of Indebtedness and Issuance of Preferred Stock” below, relating to Permitted Debt;

(7) any agreement for the sale or other disposition of a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending the sale or other disposition;

(8) Permitted Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(9) Liens securing Indebtedness otherwise permitted to be incurred under the provisions described under “Liens” below that limit the right of the debtor to dispose of the assets subject to such Liens;

(10) any restriction under an agreement governing Indebtedness of a Foreign Subsidiary permitted under “Incurrence of Indebtedness and Issuance of Preferred Stock” below;

(11) provisions limiting or prohibiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements entered into with the approval of the Borrower’s Board of Directors, which limitation or prohibition is applicable only to the assets that are the subject of such agreements;

(12) any agreement or instrument governing Indebtedness permitted to be incurred under the Senior Notes Indenture, *provided* that the terms and conditions of any such restrictions and encumbrances, taken as a whole, are not materially more restrictive than those contained in the Senior Notes Indenture, taken as a whole; and

(13) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business.

For purposes of determining compliance with the provisions described above under this heading, in the event that a restriction meets the criteria of more than one of the categories of permitted restrictions described in clauses (1) through (13) above, the Borrower will be permitted to classify such restriction on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this covenant.

#### *Incurrence of Indebtedness and Issuance of Preferred Stock*

The Borrower will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, “incur”) any Indebtedness (including Acquired Debt), and the Borrower will not issue any Disqualified Stock and will not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; *provided, however*, that the Borrower may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock and the Restricted Subsidiaries may incur Indebtedness or issue preferred stock, if the Fixed Charge Coverage Ratio for the Borrower’s most recently ended four full fiscal quarters for which financial statements are available in accordance with

“Other Reports” below would have been at least 2.0 to 1, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom and, in the case of Acquired Debt, giving pro forma effect to the applicable transaction related thereto), as if the additional Indebtedness had been incurred (and such transaction had occurred) or the preferred stock or Disqualified Stock had been issued, as the case may be, at the beginning of such four-quarter period.

The provisions described in the preceding paragraph will not prohibit the incurrence of any of the following items of Indebtedness (collectively, “Permitted Debt”):

(1) the incurrence by the Borrower or any Restricted Subsidiary of Indebtedness and letters of credit under one or more Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (1) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Borrower and its Subsidiaries thereunder) not to exceed the greater of (i) 30.0% of Consolidated Net Tangible Assets or (ii) \$600.0 million;

(2) the incurrence by the Borrower and its Restricted Subsidiaries of the Existing Indebtedness;

(3) the incurrence by the Borrower and the Subsidiary Guarantors of Indebtedness represented by the notes and the related guarantees to be issued pursuant to the Senior Notes Indenture;

(4) the incurrence by the Borrower or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of design, construction, installation or improvement of property, plant or equipment used or usable in a Permitted Business, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (4), not to exceed the greater of (i) 1.0% of Consolidated Net Tangible Assets and (ii) \$20.0 million at any time outstanding;

(5) the incurrence by the Borrower or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to extend, refund, refinance, renew, defease or replace Indebtedness (other than intercompany Indebtedness) that was permitted by the Senior Notes Indenture to be incurred under the first paragraph above under this heading or clause (2), (3), (4), (5), (16) or (17) of this paragraph;

(6) the incurrence by the Borrower or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Borrower and any of its Restricted Subsidiaries; *provided, however*, that:

(A) if the Borrower or any Subsidiary Guarantor is the obligor on such Indebtedness and the payee is not the Borrower or a Subsidiary Guarantor, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the Notes, in the case of the Borrower, or the Guarantee, in the case of a Subsidiary Guarantor; and

(B) (i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Borrower or a Restricted Subsidiary of the Borrower and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either the Borrower or a Restricted Subsidiary of the Borrower

will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Borrower or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);

(7) the issuance by any of the Borrower's Restricted Subsidiaries to the Borrower or to any of its Restricted Subsidiaries of shares of preferred stock; *provided, however*, that:

(A) any subsequent issuance or transfer of Equity Interests that results in any such preferred stock being held by a Person other than the Borrower or a Restricted Subsidiary of the Borrower; and

(B) any sale or other transfer of any such preferred stock to a Person that is not either the Borrower or a Restricted Subsidiary of the Borrower; will be deemed, in each case, to constitute an issuance of such preferred stock by such Restricted Subsidiary that was not permitted by this clause (7);

(8) the incurrence by the Borrower or any of its Restricted Subsidiaries of Hedging Obligations in the ordinary course of business and not for speculative purposes;

(9) the guarantee by the Borrower or any of its Restricted Subsidiaries of Indebtedness of the Borrower or a Restricted Subsidiary of the Borrower that was permitted to be incurred by another provision described under this heading; *provided* that if the Indebtedness being guaranteed is subordinated to or *pari passu* with the Notes, then the guarantee will be subordinated to the same extent as the Indebtedness guaranteed;

(10) the incurrence by the Borrower or any of its Restricted Subsidiaries of Indebtedness in respect of workers' compensation claims; self-insurance or similar obligations; the financing of insurance premiums; bankers' acceptances; performance, appeal, bid completion, guarantee and surety bonds; or similar requirements (and, in all cases, letters of credit in respect thereof) in the ordinary course of business;

(11) the incurrence by the Borrower or any of its Restricted Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five Business Days;

(12) the incurrence by Foreign Subsidiaries of Indebtedness in an aggregate principal amount at any time outstanding pursuant to this clause (12), including all Permitted Refinancing Indebtedness incurred to refund, refinance, defease, renew, extend or replace Indebtedness incurred pursuant to this clause (12), not to exceed the greater of (i) 5.0% of Consolidated Net Tangible Assets and (ii) \$100.0 million;

(13) the incurrence by the Borrower or a Restricted Subsidiary of Indebtedness arising from agreements of the Borrower or such Restricted Subsidiary providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred in connection with the disposition of any business, assets or subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or subsidiary for the purpose of financing such acquisition; *provided* that the maximum aggregate liability in respect of all such Indebtedness will at no time exceed the gross proceeds actually received by the Borrower or such Restricted Subsidiary in connection with such disposition;

(14) the incurrence by the Borrower or a Restricted Subsidiary of Indebtedness consisting of take-or-pay obligations contained in supply agreements entered into in the ordinary course of business;

(15) the incurrence by the Borrower of Indebtedness to any of its Subsidiaries incurred in connection with the purchase of accounts receivable and related assets by the Borrower from any such Subsidiary which assets are subsequently conveyed by the Borrower in connection with a Receivable Facility; and

(16) the incurrence by the Borrower or any of its Restricted Subsidiaries of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to extend, refund, refinance, renew, defease or replace any Indebtedness incurred pursuant to this clause (16), and the issuance by the Borrower of any Disqualified Stock and by any Restricted Subsidiary of any additional preferred stock, not to exceed the greater of (i) 5.0% of Consolidated Net Tangible Assets and (ii) \$100.0 million; and

(17) the incurrence or issuance, as the case may be, by the Borrower or any Restricted Subsidiary of Acquired Debt, Acquired Preferred Stock or Acquired Disqualified Stock; provided that immediately after giving effect to such incurrence or issuance, as the case may be, (i) the Fixed Charge Coverage Ratio for the Borrower's most recently ended four full fiscal quarters for which financial statements are available preceding the date of such incurrence or issuance, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom) as if such Acquired Debt, Acquired Preferred Stock or Acquired Disqualified Stock had been incurred or issued at the beginning of such four-quarter period, would be (x) at least 2.0 to 1 or (y) equal to or greater than it would have been immediately preceding such incurrence or (ii) the Consolidated Net Worth of the Borrower would be greater than the Consolidated Net Worth of the Borrower immediately prior to such transaction.

The Borrower will not incur, and will not permit any Subsidiary Guarantor to incur, any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Pari Passu Indebtedness of the Borrower or such Subsidiary Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the Notes and the applicable Guarantee on substantially identical terms; *provided, however*, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Borrower solely by virtue of being unsecured or by virtue of being secured on a first or junior Lien basis.

For purposes of determining compliance with the covenant described under this heading, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (17) above, or is entitled to be incurred pursuant to the first paragraph above under this heading, the Borrower will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this covenant. Indebtedness under Credit Facilities outstanding on the date on which Notes are first issued and authenticated under the Senior Notes Indenture will initially be deemed to have been incurred on such date in reliance on the exception provided by clause (1) of the definition of Permitted Debt. The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this covenant; *provided*, in each such case, that the amount thereof is included in Fixed Charges of the Borrower as accrued. Notwithstanding any other provision of this

covenant, the maximum amount of Indebtedness that the Borrower or any Restricted Subsidiary may incur pursuant to this covenant will not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

#### *Asset Sales*

The Borrower will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(1) the Borrower or the Restricted Subsidiary, as the case may be, receives consideration at the time of the Asset Sale at least equal to the Fair Market Value (as determined by the Borrower's Board of Directors and evidenced by a resolution of the Board of Directors set forth in an Officers' Certificate delivered to the Trustee as to Asset Sales having a Fair Market Value of \$50.0 million or greater) of the assets or Equity Interests issued or sold or otherwise disposed of; and

(2) at least 75% of the consideration received in the Asset Sale by the Borrower or such Restricted Subsidiary is in the form of cash or Cash Equivalents, publicly traded equity securities of a Person with a market capitalization (not held by Affiliates of such Person) of at least \$500 million or a controlling interest in, or long-term assets used or useful in, a business engaged in a Permitted Business. For purposes of this provision, each of the following will also be deemed to be cash:

(A) any liabilities, as shown on its most recent balance sheet, of the Borrower or such Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes or any Guarantee) that are assumed by the transferee of any such assets pursuant to a customary novation agreement that releases the Borrower or such Restricted Subsidiary from further liability;

(B) any securities, notes or other obligations received by the Borrower or any such Restricted Subsidiary from such transferee that are promptly, subject to ordinary settlement periods, converted or monetized by the Borrower or such Restricted Subsidiary into cash, to the extent of the cash received in that conversion or monetization; and

(C) any Capital Stock or assets of the kind referred to in clause (2) or (4) of the next paragraph of this covenant.

Within 360 days after the receipt of any Net Proceeds from an Asset Sale, the Borrower or the applicable Restricted Subsidiary, as the case may be, may apply those Net Proceeds, at its option, to any one or more of the following:

(1) to repay Indebtedness and other Obligations of the Borrower and its Restricted Subsidiaries;

(2) to acquire all or substantially all of the assets of, or any Capital Stock of, any Person or division conducting a Permitted Business, if, in the case of any such acquisition of Capital Stock and after giving effect thereto, such Person will be a Restricted Subsidiary of the Borrower (or enter into a binding commitment for any such acquisition); *provided* that such binding commitment will be treated as a permitted application of Net Proceeds from the date of such commitment until and only until the earlier of (x) the date on which such acquisition is

consummated and (y) the 180th day following the expiration of the aforementioned 360-day period. If the acquisition or expenditure contemplated by such binding commitment is not consummated on or before such 180th day and the Borrower or such Restricted Subsidiary has not applied such Net Proceeds pursuant to clause (1), (3) or (4) of this paragraph on or before such 180th day, such commitment will be deemed not to have been a permitted application of Net Proceeds;

(3) to make a capital expenditure; or

(4) to acquire other assets that are not classified as current assets under GAAP and that are used or useful in a Permitted Business;

*provided, however*, that to the extent that the Asset Sale consists, directly or indirectly, of Domestic Assets, in order to qualify under any of the foregoing clauses (1) through (4) of this paragraph, the Borrower must apply such proceeds to acquire additional Domestic Assets, acquire assets located in the United States or a Person described in clause (2) above which will become a Domestic Subsidiary at the time it becomes a Restricted Subsidiary pursuant thereto, make domestic capital expenditures or repay Indebtedness that is an obligation of the Borrower or a Subsidiary Guarantor.

Pending the final application of any Net Proceeds, the Borrower may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by the Senior Notes Indenture. Any Net Proceeds from Asset Sales that are not applied or invested as provided in the preceding paragraph will constitute "Excess Proceeds." On the 361st day after the Asset Sale (or, at the Borrower's option, any earlier date), if the aggregate amount of Excess Proceeds exceeds \$25.0 million, the Borrower will make an Asset Sale Offer to all holders of the Bonds and to all holders of other Pari Passu Indebtedness, including the Public Notes (collectively, an "Asset Sale Offer"), in respect of which an offer to purchase is also required to purchase the maximum principal amount of Bonds and such other Pari Passu Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of principal amount plus accrued and unpaid interest to the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Borrower may use those Excess Proceeds for any purpose not otherwise prohibited by the Senior Notes Indenture. If the aggregate principal amount of Bonds and other Pari Passu Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Notes Trustee will select the Bonds and such other Pari Passu Indebtedness to be purchased on a pro rata basis. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

To the extent that the provisions of any securities laws or regulations conflict with the Change of Control or Asset Sale provisions of the Senior Notes Indenture, the Borrower will comply with the applicable securities laws and regulations and the Borrower will not be deemed to have breached its obligations under the Change of Control or Asset Sale provisions of the Senior Notes Indenture by virtue of such conflict.

Notwithstanding the provisions described in the preceding paragraphs (other than the proviso in the second full paragraph under this heading), the Borrower and its Restricted Subsidiaries may consummate an Asset Sale without complying with such provisions if (i) at least 80% of the consideration for such Asset Sale is in the form of assets used or useful in a Permitted Business and (ii) such Asset Sale is for at least Fair Market Value.

### *Transactions with Affiliates*

The Borrower will not, and will not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Borrower (each, an "Affiliate Transaction"), unless:

(1) the Affiliate Transaction is on terms that are no less favorable to the Borrower or the relevant Restricted Subsidiary than those that might reasonably have been obtained in a comparable transaction by the Borrower or such Restricted Subsidiary with an unrelated Person; and

(2) the Borrower delivers to the Trustee:

(A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$10.0 million, a resolution of the Board of Directors set forth in an Officers' Certificate certifying that such Affiliate Transaction complies with this covenant and such Affiliate Transaction been approved by a majority of the members of the Board of Directors; and

(B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$50.0 million, (i) a Board Resolution certifying that such Affiliate Transaction complies with clause (1) above and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors, if any, or if there are no such disinterested members, then (ii)(x) an opinion as to the fairness to the Borrower or such Restricted Subsidiary of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing or (y) with respect to assets classified, in accordance with GAAP, as property, plant or equipment, a written appraisal from a nationally recognized appraiser showing the assets have a Fair Market Value of not less than the consideration paid (*provided* that if the Fair Market Value determined by such appraiser is a range of values or otherwise inexact, the Board of Directors will determine the exact Fair Market Value within such range).

The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the preceding paragraph:

(1) any fees, compensation and other payments paid to any officer or employee pursuant to any employment agreement, employee or director benefit plan, officer and director indemnification agreement or any similar arrangement entered into by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business;

(2) transactions between or among the Borrower and/or its Restricted Subsidiaries;

(3) transactions with a Person (other than an Unrestricted Subsidiary of the Borrower) that is an Affiliate of the Borrower solely because the Borrower owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;

(4) payment of reasonable directors' fees to Persons who are not otherwise Affiliates of the Borrower;

- (5) any issuance of Equity Interests (other than Disqualified Stock) of the Borrower to Affiliates of the Borrower;
- (6) Restricted Payments that do not violate the provisions described under “Restricted Payments” above;
- (7) loans or advances to employees in the ordinary course of business not to exceed \$10.0 million in the aggregate at any one time outstanding;
- (8) sales (including a sale in exchange for a promissory note of or Equity Interest in such Accounts Receivable Subsidiary) of accounts receivable, related assets and the provision of billing, collection and other services in connection therewith, in each case, to an Accounts Receivable Subsidiary in connection with any Receivables Facility;
- (9) transactions pursuant to any contract or agreement in effect on the Issue Date, as the same may be amended, modified, extended or replaced from time to time, so long as any such contract or agreement as so amended, modified, extended or replaced is, taken as a whole, not materially less favorable to the Borrower and its Restricted Subsidiaries than under those agreements in effect on the Issue Date;
- (10) any transaction or series of transactions between the Borrower or any Restricted Subsidiary and any of their Joint Ventures or any Unrestricted Subsidiary, *provided* that (a) such Affiliate Transaction complies with clause (1) of the initial paragraph above, and (b) with respect to any such Affiliate Transaction involving aggregate consideration in excess of the greater of (i) 0.5% of Consolidated Net Tangible Assets and (ii) \$10.0 million, such Affiliate Transaction has been approved by the Board of Directors;
- (11) transactions between the Borrower or its Restricted Subsidiaries and any Person who becomes an Unrestricted Subsidiary or Joint Venture pursuant to agreements entered into before, and not in contemplation of, the consummation of any such transaction;
- (12) Permitted Investments;
- (13) transactions entered into by a Person prior to the time such Person becomes a Subsidiary or is merged or consolidated into the Borrower or a Subsidiary (provided such transaction is not entered into in contemplation of such event); and
- (14) transactions with any customer, client, supplier, distributor or any other purchaser or seller of goods or services (including, without limitation, with any Unrestricted Subsidiary), in each case in the ordinary course of business and otherwise in compliance with the terms of the Senior Notes Indenture, which when taken together with other transactions with the same Person are, in the reasonable determination of the Board of Directors or senior management of the Borrower, fair to the Borrower and its Restricted Subsidiaries or on terms not less favorable than might have been obtained in a comparable transaction at such time on an arm’s length basis from a person who is not an Affiliate.

*Liens*

The Borrower will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien, except Permitted Liens, to secure Indebtedness of any kind on any asset now owned or hereafter acquired, unless all payments due under

the Senior Notes Indenture and the Notes are secured on an equal and ratable basis with the obligations so secured (or, if such obligations are subordinated by their terms to the Notes or the related Guarantees, prior to the obligations so secured) until such time as such obligations are no longer secured by a Lien.

#### *Additional Guarantees*

If, after the date of the Supplemental Indenture, any Domestic Subsidiary of the Borrower that is not already a Subsidiary Guarantor (including, without limitation, any Domestic Subsidiary acquired or created after the date of the Supplemental Indenture) guarantees any other Indebtedness in excess of \$5 million of either of the Borrower or a Subsidiary Guarantor, then in either case that Subsidiary will become a Subsidiary Guarantor by executing a supplemental indenture and delivering it to the Notes Trustee within 15 Business Days of the date on which it guaranteed or incurred such Indebtedness, as the case may be. Notwithstanding the preceding, any guarantee of a Domestic Subsidiary that was incurred pursuant to this paragraph as a result of a guarantee of any other Indebtedness in excess of \$5 million will provide by its terms that it will be automatically and unconditionally released upon the release or discharge of the guarantee that resulted in the creation of such Domestic Subsidiary's Guarantee, except a discharge or release by, or as a result of payment under, such Guarantee.

#### *Designation of Restricted and Unrestricted Subsidiaries*

The Board of Directors may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Borrower and its Restricted Subsidiaries in the Subsidiary designated as Unrestricted will be deemed to be an Investment made as of the time of the designation and, to the extent not otherwise permitted by the second paragraph under "Restricted Payments" above or under one or more clauses of the definition of Permitted Investments, as determined by the Borrower, will reduce the amount available for Restricted Payments as described under "Restricted Payments" above. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Board of Directors may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if that redesignation would not cause a Default. If a Restricted Subsidiary that is a Subsidiary Guarantor is designated an Unrestricted Subsidiary in accordance with the terms of this covenant, such Guarantee will be released.

#### *Sale and Leaseback Transactions*

The Borrower will not, and will not permit any of its Restricted Subsidiaries to, enter into any sale and leaseback transaction; *provided* that the Borrower or any Restricted Subsidiary may enter into a sale and leaseback transaction if:

(1) the Borrower or that Restricted Subsidiary, as applicable, could have (a) incurred Indebtedness in an amount equal to the Attributable Debt relating to such sale and leaseback transaction under the Fixed Charge Coverage Ratio test in the first paragraph of the covenant described under "Incurrence of Indebtedness and Issuance of Preferred Stock" above and (b) incurred a Lien to secure such Indebtedness pursuant to the covenant described under "Liens" above.

(2) the gross cash proceeds of that sale and leaseback transaction are at least equal to the Fair Market Value, as determined in good faith by the Board of Directors and set forth in an Officers' Certificate delivered to the Notes Trustee, of the property that is the subject of that sale and leaseback transaction; and

(3) the transfer of assets in that sale and leaseback transaction is permitted by, and the Borrower applies the proceeds of such transaction in compliance with, the covenant described under “Asset Sales” above.

#### *Accounts Receivable Facilities*

Notwithstanding any other provisions of the Senior Notes Indenture, the Borrower or any of its Restricted Subsidiaries may sell (including a sale in exchange for a promissory note of or Equity Interest in such Accounts Receivable Subsidiary) at any time and from time to time, accounts receivable and related assets to any Accounts Receivable Subsidiary; *provided* that the aggregate consideration received in each such sale is at least equal to the aggregate Fair Market Value of the receivables sold.

#### *Payments for Consent*

The Borrower will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of Notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the Senior Notes Indenture or the Notes unless such consideration is offered to be paid or agreed to be paid to all Holders of the Notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

#### *Other Reports*

The Borrower will file with the SEC (unless the SEC will not accept such a filing)

(1) all quarterly and annual reports required to be filed with the SEC on Forms 10-Q and 10-K; and

(2) all current reports required to be filed with the SEC on Form 8-K,

for public availability within the time periods specified in the rules and regulations applicable to such reports.

If, at any time the Borrower is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Borrower will nevertheless continue filing the reports specified in the preceding paragraph with the SEC within the time periods specified above unless the SEC will not accept such a filing. The Borrower agrees that it will not take any action for the purpose of causing the SEC not to accept any such filings. If the SEC will not accept the Borrower’s filings for any reason, the Borrower will post the reports referred to in the preceding paragraph on its website within the time periods that would apply if the Borrower were required to file those reports with the SEC.

#### **Limitations on Mergers, Consolidations and Sales of Assets**

The Borrower will not, directly or indirectly: (x) consolidate or merge with or into another Person (whether or not the Borrower is the surviving corporation); or (y) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Borrower and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(1) either: (x) the Borrower is the surviving or continuing Person; or (y) the Person formed by or surviving any such consolidation or merger (if other than the Borrower) or to which such sale, assignment, transfer, conveyance or other disposition has been made is a Person

organized or existing under the laws of the United States, any state of the United States or the District of Columbia;

(2) the Person formed by or surviving any such consolidation or merger (if other than the Borrower) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of the Borrower under the Notes and Senior Notes Indenture pursuant to agreements reasonably satisfactory to the Notes Trustee;

(3) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(4) the Borrower or the Person formed by or surviving any such consolidation or merger (if other than Borrower), or to which such sale, assignment, transfer, conveyance or other disposition has been made will, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, (i) be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the test set forth in the first paragraph of the covenant described under "Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock" above, (ii) have a Fixed Charge Coverage Ratio that is not less than the Fixed Charge Coverage Ratio of the Borrower immediately prior to such transaction or (iii) have Consolidated Net Worth immediately after the transaction equal to or greater than the Consolidated Net Worth of the Borrower immediately preceding the transaction.

In addition, Borrower may not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person.

The covenant described above will not apply to:

(A) a merger or consolidation of the Borrower with an Affiliate for the purpose of reincorporating or reorganizing Borrower in another jurisdiction;

(B) a merger or consolidation of the Borrower with a Wholly-Owned Restricted Subsidiary; *provided* that, in connection with any such merger or consolidation, no consideration, other than Equity Interests (other than Disqualified Stock) in the surviving or continuing Person or Borrower, will be issued or distributed to the holders of Equity Interests of the Borrower; and

(C) any sale, transfer, assignment, conveyance or other disposition of assets between or among the Borrower and its Restricted Subsidiaries.

## **Defaults and Remedies**

### *Events of Default*

Each of the following is an Event of Default under the Senior Notes Indenture with respect to the Notes:

(1) the failure by the Borrower to pay interest on any Note when the same becomes due and payable and the continuance of any such failure for a period of 30 days;

(2) the failure by the Borrower to pay the principal or premium of any Note when the same becomes due and payable at maturity, upon acceleration or otherwise;

(3) the failure by the Borrower or any Restricted Subsidiary to comply with the provisions described above under “Certain Covenants—Change of Control,” “—Asset Sales” or “Limitations on Mergers, Consolidations and Sales of Assets”;

(4) the Borrower or any Subsidiary Guarantor fails to comply with any of its other covenants or agreements in, or provisions of, the Notes or the Senior Notes Indenture (other than an agreement, covenant or provision that has expressly been included in the Senior Notes Indenture solely for the benefit of one or more series of Securities other than the Notes) which has not been remedied after written notice within the specified period under the Senior Notes Indenture;

(5) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Borrower or any of its Significant Subsidiaries (or the payment of which is guaranteed by the Borrower or any of its Significant Subsidiaries) whether such Indebtedness or guarantee now exists, or is created after the date of the Supplemental Indenture, if that default:

(A) is caused by a failure to pay principal of, or interest or premium, if any, on such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a “Payment Default”); or

(B) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$40.0 million or more and has not been discharged in full or such acceleration has not been rescinded or annulled within 30 days of such maturity or acceleration;

(6) failure by the Borrower or any of its Significant Subsidiaries to pay or otherwise discharge or stay final judgments aggregating in excess of \$40.0 million, which are not covered by indemnities or third party insurance as to which the Person giving such indemnity or such insurer has not disclaimed coverage, for a period of 60 days after such judgments become final and non-appealable;

(7) the occurrence of certain events of bankruptcy or insolvency with respect to the Borrower or any Restricted Subsidiary that is a Significant Subsidiary; or

(8) except as permitted by the Senior Notes Indenture, any Guarantee of the Notes pursuant to the Senior Notes Indenture ceases to be in full force and effect (other than in accordance with the terms of such Guarantee and the Senior Notes Indenture) or is declared null and void in a judicial proceeding or any Subsidiary Guarantor denies or disaffirms its obligations under the Senior Notes Indenture or its Guarantee (other than by reason of release of a Subsidiary Guarantor from its Guarantee in accordance with the terms of the Senior Notes Indenture and the Guarantee).

#### *Acceleration*

If an Event of Default with respect to the Notes (other than an Event of Default specified in clause (7) under “Events of Default” above) occurs and is continuing, the Trustee by notice to the Borrower and the Subsidiary Guarantors, or the Holders of at least 25% in principal amount of the then outstanding Notes (or, in the case of an Event of Default described in clause (4) under “Events of Default” above, if outstanding Securities of other series are affected by such Event of Default, then at least 25% in principal amount of the then outstanding Securities so affected) by notice to the Borrower, the Subsidiary Guarantors and the Notes Trustee, may declare the principal of and all accrued and unpaid interest on all then outstanding Notes or all series of Securities, as the case may be, to be due and payable. Upon any such declaration, the amounts due and payable on the Notes will be due and payable immediately. If an Event of Default specified in clause (7) under “Events and Default” above occurs, such amounts will *ipso facto* become and be immediately due and payable without any declaration, notice or other act on the part of the Notes Trustee or any Holder. The holders of a majority in principal amount of the then outstanding Securities of the series affected by such Event of Default or all series so affected, as the case may be, by written notice to the Notes Trustee may rescind an acceleration and its consequences (other than nonpayment of principal of or premium or interest on or any Additional Amounts with respect to the Securities) if (i) the rescission would not conflict with any judgment or decree, (ii) all existing Events of Default with respect to the Securities of that series (or of all series, as the case may be) have been cured or waived, except nonpayment of principal, premium, interest or any Additional Amounts that have become due solely because of the acceleration and (iii) the Notes Trustee has been paid any amounts due to it for the reasonable compensation, expenses, disbursements and advances of the Notes Trustee, its agents and counsel, and any other amounts due the Notes Trustee under the Senior Notes Indenture.

## Amendments

### *Without the consent of the Holders*

The Borrower, the Subsidiary Guarantors and the Notes Trustee may enter into supplements to the Senior Notes Indenture or the Notes without the consent of the Holders of the Notes for the following purposes:

- (a) to cure any ambiguity, omission, defect or inconsistency;
- (b) to add covenants and agreements for the purpose of further securing the obligations of the Borrower thereunder;
- (c) to provide for uncertificated Notes in addition to or in place of certificated Notes, or to provide for the issuance of bearer Notes (with or without coupons);
- (d) to provide any security for, or to add any guarantees of or additional obligors on, the Notes or the related Guarantees;
- (e) to comply with any requirement in order to effect or maintain the qualification of the Senior Notes Indenture under the Trust Indenture Act of 1939, as amended;
- (f) to add to the covenants of the Borrower or any Subsidiary Guarantor for the benefit of the Holders of the Notes, or to surrender any right or power therein conferred upon the Borrower or any Subsidiary Guarantor;
- (g) to add any additional Events of Default with respect to the Notes;

(h) to change or eliminate any of the provisions of the Senior Notes Indenture; *provided* that any such change or elimination shall become effective only when there are no outstanding Notes created prior to the execution of such amendment or supplemental indenture that are adversely affected in any material respect by such change in or elimination of such provision;

(i) to establish the form or terms of Securities of any series issued under the Senior Notes Indenture;

(j) to supplement any of the provisions of the Senior Notes Indenture to such extent as shall be necessary to permit or facilitate the defeasance and discharge of the Notes; *provided, however*, that any such action shall not adversely affect the interest of the Holders of Notes in any material respect;

(k) to evidence and provide for the acceptance of appointment thereunder by a successor Trustee with respect to the Notes and to add to or change any of the provisions of the Senior Notes Indenture as shall be necessary to provide for or facilitate the administration of the trusts under the Senior Notes Indenture by more than one Notes Trustee;

(l) to confirm as further assurance any mortgage or pledge of additional property, revenues, securities or funds;

(m) to provide any other modifications which, in the sole judgment of the Notes Trustee, are not prejudicial to the interests of the Holders of the Notes; or

(n) to conform the covenants and provisions of the Borrower contained in the Senior Notes Indenture to any different financial statement presentation required by the Financial Accounting Standard Board which is different than the presentation required as of the date of issuance of the Notes, so long as the effect of such conformed covenants and provisions is substantially identical to the effect of the covenants and provisions as in effect on the date of issuance of the Notes.

*With the consent of the Holders*

The Borrower, the Subsidiary Guarantors and the Notes Trustee may amend or supplement the Senior Notes Indenture and the Notes with the consent of the Holders of at least a majority in principal amount of the then outstanding Securities of all series affected by such amendment or supplement (acting as one class); *provided*, that the Holders of at least a majority in principal amount of the then outstanding Notes may waive compliance in a particular instance by the Borrower or a Subsidiary Guarantor with the Senior Notes Indenture.

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

(a) reduce the amount of Securities whose Holders must consent to an amendment, supplement or waiver;

(b) reduce the rate of or change the time for payment of interest, including default interest, on any Security;

(c) reduce the principal of, any premium on or any mandatory sinking fund payment with respect to, or change the stated maturity of, any Security or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon a declaration of acceleration of the maturity;

- (d) reduce the premium, if any, payable upon the redemption of any Security or change the time at which any Security may or shall be redeemed;
- (e) change any obligation of the Borrower or any Subsidiary Guarantor to pay Additional Amounts with respect to any Security;
- (f) change the coin or currency or currencies (including composite currencies) in which any Security or any premium, interest or Additional Amounts with respect thereto are payable;
- (g) impair the right to institute suit for the enforcement of certain payments of principal of, premium (if any) or interest on or any Additional Amounts with respect to any Security;
- (h) make certain changes in the percentage of principal amount of Securities necessary to waive compliance with certain provisions of the Senior Notes Indenture or make any change in this sentence;
- (i) waive a continuing Default or Event of Default in the payment of principal of, premium, if any, or interest on or Additional Amounts with respect to the Securities;
- (j) except in certain instances, release any Subsidiary Guarantor or modify the related Guarantee in any manner materially adverse to the Holders; or
- (k) if applicable, make any change that materially and adversely affects the right to convert any Security.

**Release of Subsidiary Guarantors from Guarantee**

Notwithstanding any other provisions of the Senior Notes Indenture, the Guarantee of any Subsidiary Guarantor may be released upon the terms and subject to the conditions set forth under this heading. Provided that no Default has occurred and is continuing under the Senior Notes Indenture, any Guarantee incurred by a Subsidiary Guarantor pursuant to the Senior Notes Indenture will be unconditionally released and discharged

(i) automatically:

(1) upon any sale or other disposition of all or substantially all of the assets of that Subsidiary Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) the Borrower or a Restricted Subsidiary of the Borrower, if the sale or other disposition does not violate the covenant described under “Certain Covenants—Asset Sales” above;

(2) upon any sale or other disposition of all of the Capital Stock of a Subsidiary Guarantor to a Person that is not (either before or after giving effect to such transaction) the Borrower or a Subsidiary of the Borrower, if the sale or other disposition does not violate the covenant described under “Certain Covenants—Asset Sales” above;

(3) if the Borrower designates any Restricted Subsidiary that is a Subsidiary Guarantor to be an Unrestricted Subsidiary in accordance with the applicable provisions of the Senior Notes Indenture;

- (4) upon legal defeasance or satisfaction and discharge of the Notes as provided in the Senior Notes Indenture; or
- (5) at such time as such Guarantor ceases to guarantee any other Indebtedness of the Borrower or a Guarantor in excess of \$5 million;

or

(ii) following delivery of a written notice of such release or discharge by the Borrower to the Trustee, upon the release or discharge of all guarantees by such Subsidiary Guarantor of any Debt of the Borrower other than obligations arising under the Senior Notes Indenture and any Securities issued thereunder, except a discharge or release by or as a result of payment under such guarantees.

#### CERTAIN DEFINITIONS

*The following terms used in the descriptions of the Agreement and the Notes and the Senior Notes Indenture have the meanings set forth below. Capitalized terms used but not defined herein have the meanings ascribed to such terms in the Agreement or Senior Notes Indenture, as applicable.*

“Accounts Receivable Subsidiary” means any wholly-owned Subsidiary of the Borrower (i) which is formed solely for the purpose of, and which engages in no substantial activities other than activities in connection with, financing accounts receivable of the Borrower and/or its Restricted Subsidiaries, (ii) which is designated by the Borrower as an Accounts Receivables Subsidiary pursuant to an Officers’ Certificate delivered to the Notes Trustee, (iii) no portion of Indebtedness or any other obligation (contingent or otherwise) of which is at any time recourse to or obligates the Borrower or any Restricted Subsidiary in any way, or subjects any property or asset of the Borrower or any Restricted Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to (1) representations, warranties and covenants (or, any indemnity with respect to such representations, warranties and covenants) entered into in the ordinary course of business in connection with the sale (including a sale in exchange for a promissory note of or Equity Interest in such Accounts Receivable Subsidiary) of accounts receivable to such Accounts Receivable Subsidiary or (2) any Guarantee of any such accounts receivable financing by the Borrower or any Restricted Subsidiary that is permitted to be incurred under the covenants described under “Certain Covenants—Restricted Payments” and “—Incurrence of Indebtedness and Issuance of Preferred Stock” above, (iv) with which neither the Borrower nor any Restricted Subsidiary has any contract, agreement, arrangement or understanding other than contracts, agreements, arrangements and understandings entered into in the ordinary course of business in connection with the sale (including a sale in exchange for a promissory note of or Equity Interest in such Accounts Receivable Subsidiary) of accounts receivable in accordance with the covenant described under “Certain Covenants—Accounts Receivable Facilities” above and fees payable in the ordinary course of business in connection with servicing accounts receivable and (v) with respect to which neither the Borrower nor any Restricted Subsidiary has any obligation (a) to subscribe for additional Equity Interests therein or make any additional capital contribution or similar payment or transfer thereto other than in connection with the sale (including a sale in exchange for a promissory note of or Equity Interest in such Accounts Receivable Subsidiary) of accounts receivable to such Accounts Receivable Subsidiary in accordance with the covenant described under “Certain Covenants—Accounts Receivable Facilities” above or (b) to maintain or preserve the solvency, any balance sheet term, financial condition, level of income or results of operations thereof.

“Acquired Disqualified Stock” means, with respect to any specified Person, Disqualified Stock of any other Person existing at the time such other Person is merged with or into or became a Restricted

Subsidiary of such specified Person, whether or not such Disqualified Stock is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person.

“Acquired Preferred Stock” means, with respect to any specified Person, preferred stock of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, whether or not such preferred stock is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person.

“Affected Covenants” has the meaning set forth under “Certain Covenants—Covenant Suspension” above.

“Affiliate Transaction” has the meaning set forth under “Certain Covenants—Transactions with Affiliates” above.

“Asset Sale” means:

(1) the sale, lease, conveyance or other disposition (other than the creation of a Lien) of any assets or rights; *provided* that the sale, conveyance or other disposition of all or substantially all of the assets of the Borrower and its Restricted Subsidiaries taken as a whole will be governed by the provisions described above under “Limitations on Mergers, Consolidations and Sales of Assets” and not by the provisions described above under “Certain Covenants—Asset Sales;” and

(2) the issuance of Equity Interests in any of the Borrower’s Restricted Subsidiaries or the sale by the Borrower or any Restricted Subsidiary of Equity Interests in any of its Subsidiaries or Joint Ventures.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

(1) any single transaction or series of related transactions for which the Borrower or its Restricted Subsidiaries receive aggregate consideration of less than \$25.0 million;

(2) a transfer of assets between or among the Borrower and/or its Restricted Subsidiaries;

(3) an issuance of Equity Interests by a Restricted Subsidiary to the Borrower or to a Restricted Subsidiary of the Borrower;

(4) the sale or lease of products, services, accounts receivable, rolling stock, barges, pipeline capacity or chemical products in the ordinary course of business and any sale or other disposition of damaged, worn-out or obsolete assets in the ordinary course of business;

(5) a sale (including a sale in exchange for a promissory note of or Equity Interest in such Accounts Receivable Subsidiary) of accounts receivable and/or related assets to an Accounts Receivable Subsidiary in connection with any Receivables Facility;

(6) the sale or other disposition of cash or Cash Equivalents; or

(7) a Restricted Payment that does not violate the covenant described above under “Certain Covenants—Restricted Payments” or any Investment.

“Asset Sale Offer” has the meaning set forth under “Certain Covenants—Asset Sales” above.

“Attributable Debt” in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP; *provided, however*, that if such sale and leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of “Capital Lease Obligation.”

“Board of Directors” means:

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

“Borrower Designee” means the Borrower or a third party designated by the Borrower in connection with a Change of Control Offer.

“Capital Lease Obligation” means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

“Capital Stock” means:

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

“Cash Equivalents” means:

- (1) United States dollars;
- (2) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (*provided* that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than one year from the date of acquisition;
- (3) certificates of deposit and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers’ acceptances with maturities not exceeding one year and overnight bank deposits, in each case, with any domestic commercial bank having capital and surplus in excess of \$500.0 million and a Thomson Bank Watch Rating of “B” or better;
- (4) commercial paper having one of the two highest ratings obtainable from Moody’s or S&P and in each case maturing within nine months after the date of acquisition;
- (5) investments in any U.S. dollar denominated money market fund as defined by Rule 2a-7 under the Investment Borrower Act of 1940;
- (6) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clauses (2) and (3) above (without regard to the limitation on maturity contained in such clause) and entered into with a financial institution satisfying the criteria described in clause (3) above;
- (7) marketable direct obligations issued by any U.S. corporation, state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition, having a rating of no lower than single A from either S&P or Moody’s;
- (8) auction rate preferred stocks, whether taxable, tax-exempt or DRD, issued by a domestic or foreign corporation, a domestic or foreign bank, or closed-end municipal or taxable bond fund, that reset periodically through a modified “Dutch” auction, the frequency of auctions of which allows for classification as short term investment, available for sale, at the time of acquisition, having a rating of no lower than triple A from either S&P or Moody’s;
- (9) floating rate, variable rate and auction rate bonds, whether taxable or tax-exempt, issued by municipalities, states, state agencies, political subdivision of states or any public instrumentality thereof, that reset periodically through a modified “Dutch” auction, the frequency of auctions of which allows for classification as short term investment available for sale thereof and, at the time of acquisition, having a rating of no lower than triple A from either S&P or Moody’s; and
- (10) investments in bond funds which are triple A rated by either S&P or Moody’s which maintain a dollar weighted average portfolio maturity or not more than three years and a dollar weighted average duration not exceeding two years.

“Change of Control” means the occurrence of any of the following:

- (1) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially

all of the properties or assets of the Borrower and its Restricted Subsidiaries taken as a whole to any “person” (as that term is used in Section 13(d) of the Exchange Act) other than a Principal or a Related Party of a Principal;

(2) the adoption of a plan relating to the liquidation or dissolution of the Borrower;

(3) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any “person” (as defined above), other than the Principals and their Related Parties becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Borrower, measured by voting power rather than number of shares, other than in any transaction that complies with clause (4) below;

(4) the Borrower consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into, the Borrower, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of the Borrower or such other Person is converted into or exchanged for cash, securities or other property, other than any such transaction where the Voting Stock of the Borrower outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock (other than Disqualified Stock) of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance); or

(5) the first day on which a majority of the members of the Board of Directors of the Borrower are not Continuing Directors.

“Change of Control Offer” means an offer pursuant to which each Bondholder will have the right to require the Borrower, who may designate a third party for this purpose, to repurchase all or any part (which will be in an amount equal to \$100,000 or any whole multiple thereof) of that Bondholder’s Bonds upon a Change of Control.

“Consolidated Cash Flow” means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period plus, without duplication:

(1) an amount equal to any extraordinary loss plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with an Asset Sale or other asset disposition, to the extent such losses were deducted in computing such Consolidated Net Income; *plus*

(2) any non-recurring charges relating to any premium or penalty paid, write-off of deferred financing costs or other financial recapitalization charges in connection with redeeming or retiring any Indebtedness prior to its Stated Maturity to the extent such losses were deducted in computing such Consolidated Net Income; *plus*

(3) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period (including any provision for taxes on the Net Income of any Joint Venture that is a pass-through entity for federal income tax purposes, to the extent such taxes are paid or payable by such Person or any of its Restricted Subsidiaries, *provided, however*, that such provision for taxes shall only be equal to such Person’s proportional share in the Joint Venture), to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; *plus*

(4) the Fixed Charges of such Person and its Restricted Subsidiaries for such period, to the extent that such Fixed Charges were deducted in computing such Consolidated Net Income; *plus*

(5) depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period but including any unrealized non-cash losses resulting from foreign currency balance sheet adjustments required by GAAP to the extent such losses were deducted in computing Consolidated Net Income) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; *minus*

(6) other non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business;

in each case, on a consolidated basis and determined in accordance with GAAP.

Notwithstanding the preceding, the provision for taxes based on the income or profits of, and the depreciation and amortization and other non-cash expenses of, a Restricted Subsidiary of the Borrower will be added to Consolidated Net Income to compute Consolidated Cash Flow of the Borrower only to the extent that a corresponding amount would be permitted at the date of determination to be distributed as a dividend to the Borrower by such Restricted Subsidiary without prior governmental approval (that has not been obtained), and without direct or indirect restriction pursuant to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Restricted Subsidiary or its stockholders.

“Consolidated Net Income” means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; *provided* that:

(1) the Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person;

(2) the Net Income of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders; and

(3) the cumulative effect of a change in accounting principles will be excluded.

“Consolidated Net Tangible Assets” of any Person means the aggregate amount of assets of such Person (less applicable reserves and other properly deductible items) after deducting therefrom (to the extent otherwise included therein) all goodwill, trade names, trademarks, patents, unamortized debt discount and expense and other like intangibles, all as set forth on the books and records of the Person and its Restricted Subsidiaries on a consolidated basis and in accordance with GAAP.

“Consolidated Net Worth” of any Person means the consolidated stockholders’ equity of such Person, determined on a consolidated basis in accordance with GAAP, less (without duplication) amounts attributable to Disqualified Stock of such Person.

“Continuing Directors” means, as of any date of determination, any member of the Board of Directors of the Borrower who:

(1) was a member of such Board of Directors on the date of the Supplemental Indenture; or

(2) was nominated for election or elected or appointed to such Board of Directors with the approval of, or whose nomination for election by the stockholders was approved by, a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination, appointment or election.

“Credit Agreement” means the senior secured revolving credit agreement among the Borrower, the guarantors named therein, Bank of America, N.A., Banc of America Securities LLC and the lenders named therein providing for a revolving credit facility, including any related notes, guarantees, collateral documents, instruments and agreements executed in connection therewith and in each case as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

“Credit Facilities” means, one or more debt facilities (including, without limitation, the Credit Agreement and any Receivable Facility) or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to Accounts Receivable Subsidiaries) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time, whether or not with the same lenders or agents.

“Debt” of any Person means, without duplication: (i) all indebtedness or obligations of such Person for borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof); (ii) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments; (iii) all obligations of such Person in respect of letters of credit or other similar instruments (or reimbursement obligations with respect thereto), other than standby letters of credit, bid or performance bonds and other obligations issued by or for the account of such Person in the ordinary course of business, to the extent not drawn or, to the extent drawn, if such drawing is reimbursed not later than the third Business Day following demand for reimbursement; (iv) all obligations of such Person to pay the deferred and unpaid purchase price of property or services, except trade payables and accrued expenses incurred in the ordinary course of business; (v) all Capitalized Lease Obligations of such Person; (vi) all Debt of others secured by a lien on any asset of such Person, whether or not such Debt is assumed by such Person (provided that if the obligations so secured have not been assumed in full by such Person or are not otherwise such Person’s legal liability in full, then such obligations shall be deemed to be in an amount equal to the greater of (a) the lesser of (1) the full amount of such obligations and (2) the fair market value of such assets, as determined in good faith by the Board of Directors of such Person, which determination shall be evidenced by a Board Resolution, and (b) the amount of obligations as have been assumed by such Person or which are otherwise such Person’s legal liability); and (vii) all Debt of others (other than endorsements in the ordinary course of business) guaranteed by such Person to the extent of such guarantee.

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

“Disqualified Stock” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the Holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the Borrower to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the Borrower may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with the covenant described under “Certain Covenants—Restricted Payments” above. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of the Senior Notes Indenture will be the maximum amount that the Borrower and its Restricted Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock, exclusive of accrued dividends.

“Domestic Assets” means plants, property and equipment of a Domestic Subsidiary.

“Domestic Investment” has the meaning set forth under “Certain Covenants—Restricted Payments” above.

“Domestic Subsidiary” means any Restricted Subsidiary of the Borrower that was formed under the laws of the United States or any state of the United States or the District of Columbia.

“Equity Interests” means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

“Event of Default” has the meaning set forth under “Defaults and Remedies” above.

“Excess Proceeds” has the meaning set forth under “Certain Covenants—Asset Sales” above.

“Existing Indebtedness” means the Indebtedness of the Borrower and its Subsidiaries (other than Indebtedness under the Credit Agreement) in existence on the date of the Supplemental Indenture, including all reimbursement obligations with respect to letters of credit outstanding as of that date, in each case until such amounts are repaid.

“Fair Market Value” means the price that could be negotiated in an arm’s-length transaction between a willing buyer and a willing seller not involving distress or necessity of either party, determined in good faith by the Board of Directors of the Borrower (unless otherwise provided in the Senior Notes Indenture).

“Fixed Charge Coverage Ratio” means, with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, Guarantees, repays, repurchases, redeems, defeases or otherwise discharges any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “Calculation Date”), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase, redemption, defeasance or other discharge of Indebtedness, or such issuance, repurchase or redemption of

preferred stock, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

(1) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including any related financing transactions and including increases in ownership of Restricted Subsidiaries, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be given pro forma effect (in accordance with Regulation S-X under the Securities Act) as if they had occurred on the first day of the four-quarter reference period;

(2) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded;

(3) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date;

(4) any Person that is a Restricted Subsidiary on the Calculation Date will be deemed to have been a Restricted Subsidiary at all times during such four-quarter period;

(5) any Person that is not a Restricted Subsidiary on the Calculation Date will be deemed not to have been a Restricted Subsidiary at any time during such four-quarter period;

(6) if any Indebtedness bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligation applicable to such Indebtedness if such Hedging Obligation has a remaining term as at the Calculation Date in excess of 12 months); and

(7) interest income reasonably anticipated by such Person to be received during the applicable four-quarter period from cash or Cash Equivalents held by such Person or any Restricted Subsidiary of such Person, which cash or Cash Equivalents exist on the Calculation Date or will exist as a result of the transaction giving rise to the need to calculate the Fixed Charge Coverage Ratio may be added on a pro forma basis to net income for such period.

“Fixed Charges” means, with respect to any specified Person for any period, the sum, without duplication, of:

(1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Debt, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers’ acceptance

financings, and net of the effect of all payments made or received pursuant to Hedging Obligations; *plus*

(2) the consolidated interest of such Person and its Restricted Subsidiaries that was capitalized during such period; *plus*

(3) any interest accruing on Indebtedness of another Person that is guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; *plus*

(4) the product of (a) all dividends, whether paid or accrued and whether or not in cash, on any series of preferred stock of such Person or any of its Restricted Subsidiaries, other than dividends on Equity Interests payable solely in Equity Interests of the Borrower (other than Disqualified Stock) or to the Borrower or a Restricted Subsidiary of the Borrower, times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP.

However, interest payments on Indebtedness of a Joint Venture shall, in each case, not be deemed Fixed Charges of the Borrower or any Restricted Subsidiary as of any date of determination when such Indebtedness is not considered Indebtedness of the Borrower or any Restricted Subsidiary.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

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

“General Partner” means a Restricted Subsidiary of the Borrower or any of its Restricted Subsidiaries that has no assets and conducts no operations other than its ownership of a general partnership interest in a Joint Venture.

“Guarantee” means a guarantee other than by endorsement of negotiable instruments for collection or deposit in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements (other than with respect to the obligations of a Joint Venture, solely by virtue of a Restricted Subsidiary being the General Partner of such Joint Venture if, as of the date of determination, no payment on such Indebtedness has been made by such General Partner of such Joint Venture and such arrangement would not be classified and accounted for, in accordance with GAAP, as a liability on a consolidated balance sheet of the Borrower), or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

“Hedging Obligations” means, with respect to any specified Person, the obligations of such Person under:

(1) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;

- (2) other agreements or arrangements designed to manage interest rate risk; and
- (3) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates, currency values or commodity prices.

“Holder” means the Person in whose name a Note is registered in the books of the Registrar for the Notes.

“Indebtedness” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

- (1) in respect of borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) in respect of banker’s acceptances;
- (4) representing Capital Lease Obligations or Attributable Debt in respect of sale and leaseback transactions;
- (5) representing the balance deferred and unpaid of the purchase price of any property due more than six months after such property is acquired; or
- (6) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit, Attributable Debt and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term “Indebtedness” includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) (other than a Limited Recourse Stock Pledge) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;
- (2) the principal amount of the Indebtedness, in the case of any other Indebtedness; and
- (3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:
  - (a) the Fair Market Value of such assets at the date of determination; and
  - (b) the amount of the Indebtedness of the other Person.

“Interest Payment Date” means each May 1 and November 1, commencing May 1, 2008, on which Interest on the Bonds is payable.

“Investment Grade” means a rating of (i) Baa3 or better by Moody’s or BBB- or better by S&P (or, if either such entity ceases to rate the notes for reasons outside of the control of the Borrower, the equivalent investment grade credit rating from any other “nationally recognized statistical rating organization” within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act selected by the Borrower as a replacement agency) and (ii) the equivalent investment grade credit rating from another “nationally recognized statistical rating organization” within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act (including, for the avoidance of doubt, S&P if the agency referred to in clause (i) is Moody’s, or vice versa).

“Investments” means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commissions, loans, fees, compensation and advances to officers, directors and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. “Investment” excludes trade credit and accounts receivable in the ordinary course of business and reimbursement obligations in respect of letters of credit and tender, bid, performance, government contract, surety and appeal bonds, in each case solely with respect to obligations of the Borrower or any of its Restricted Subsidiaries. If the Borrower or any Restricted Subsidiary of the Borrower sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary of the Borrower such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary of the Borrower, the Borrower will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Borrower’s Investments in such Restricted Subsidiary that were not sold or disposed of in an amount determined as provided in the third paragraph of the covenant described under “Certain Covenants—Restricted Payments” above. The acquisition by the Borrower or any Restricted Subsidiary of the Borrower of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Borrower or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided the third paragraph of the covenant described under “Certain Covenants—Restricted Payments” above. Except as otherwise provided in the Senior Notes Indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.

“Joint Venture” means any joint venture between the Borrower and/or any Restricted Subsidiary and any other Person, if such joint venture is owned 50% or less by the Borrower and/or any of its Restricted Subsidiaries.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

“Limited Recourse Stock Pledge” means the pledge of Equity Interests in any Joint Venture or any Unrestricted Subsidiary to secure Non-Recourse Debt of such Joint Venture or Unrestricted Subsidiary, which pledge is made by a Restricted Subsidiary of the Borrower, the activities of which are limited to making and managing Investments, and owning Equity Interests, in such Joint Venture or Unrestricted Subsidiary, but only for so long as its activities are so limited.

“Moody’s” means Moody’s Investors Service, Inc.

“Net Income” means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:

(1) any gain or loss, together with any related provision for taxes on such gain or loss realized in connection with: (a) any Asset Sale or any disposition pursuant to a sale and leaseback transaction; or (b) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries; and

(2) any extraordinary gain or loss or revenue or expense, together with any related provision for taxes on such extraordinary gain or loss or revenue or expense.

“Net Proceeds” means the aggregate cash proceeds received by the Borrower or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of (1) the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result of the Asset Sale, (2) taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, (3) amounts required to be paid to holders of minority interests in Restricted Subsidiaries or Joint Ventures as a result of such Asset Sale, (4) amounts required to be applied to the repayment of Indebtedness, other than Indebtedness under a Credit Facility, secured by a Lien on the asset or assets that were the subject of such Asset Sale, or which must by the terms of such Lien or by applicable law be repaid out of the proceeds of such Asset Sale, (5) all payments made with respect to liabilities directly associated with the assets which are the subject of the Asset Sale, including, without limitation, trade payables and other accrued liabilities, and (6) any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

“Non-Recourse Debt” means Indebtedness:

(1) as to which neither the Borrower nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender;

(2) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Borrower or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its Stated Maturity; and

(3) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Borrower or any of its Restricted Subsidiaries, other than the Equity Interests of a Joint Venture that is not a Restricted Subsidiary or of an Unrestricted Subsidiary pledged by the Borrower or any of its Restricted Subsidiaries as a Limited Recourse Stock Pledge.

“Obligations” means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

“Pari Passu Indebtedness” means, in the case of the Notes, any senior Indebtedness of the Borrower and, in the case of the Guarantees, any senior Indebtedness of the Subsidiary Guarantor thereof, including, in each case, the Public Notes and Indebtedness and other Obligations outstanding under a Credit Facility.

“Permitted Business” means the petrochemical, chemicals, and vinyls or plastic fabrications business and any other businesses related, incidental, complementary or ancillary thereto.

“Permitted Debt” has the meaning set forth under “Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock” above.

“Permitted Investments” means:

- (1) any Investment in the Borrower or in a Restricted Subsidiary of the Borrower;
- (2) any Investment in Cash Equivalents;
- (3) any Investment by the Borrower or any Restricted Subsidiary of the Borrower in a Person, if as a result of such Investment:
  - (a) such Person becomes a Restricted Subsidiary of the Borrower; or
  - (b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Borrower or a Restricted Subsidiary of the Borrower;
- (4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with the covenant described under “Certain Covenant—Asset Sales” above;
- (5) any acquisition of assets or Capital Stock solely in exchange for the, or out of the net cash proceeds of a substantially concurrent (but no longer than 45 days) issuance of Equity Interests (other than Disqualified Stock) of the Borrower;
- (6) any Investments received in settlement, compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Borrower or any of its Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (B) litigation, arbitration or other disputes with Persons who are not Affiliates;
- (7) Investments represented by Hedging Obligations;
- (8) loans or advances to employees made in the ordinary course of business of the Borrower or the Restricted Subsidiary of the Borrower in an aggregate principal amount not to exceed \$5.0 million at any one time outstanding;
- (9) Investments in an Accounts Receivable Subsidiary that, as conclusively determined by the Board of Directors of the Borrower, are necessary or advisable to effect a Receivables Facility;
- (10) Limited Recourse Stock Pledges;

(11) additional Investments in a Subsidiary of the Borrower holding an interest in Suzhou Huasu Plastics Co. Ltd. in an aggregate amount not to exceed \$40 million in the aggregate outstanding at any time (after giving effect to any dividends, return of capital and subsequent reduction in the amount of any Investments made pursuant to this clause (11) as a result of the repayment or other disposition thereof in an amount not to exceed the amount of such Investments previously made pursuant to this clause (11);

(12) repurchases of the Notes;

(13) Investments in Joint Ventures or any Persons that, as a result of such an Investment, become Joint Ventures;

(14) repurchases of the Bonds issued under the Indenture; and

(15) other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (15) that are at the time outstanding not to exceed the greater of (i) \$50.0 million and (ii) 5% of the Consolidated Net Tangible Assets of the Borrower (after giving effect to any dividends, return of capital and subsequent reduction in the amount of any Investments made pursuant to this clause (15) as a result of the repayment or other disposition thereof, upon designation of an Unrestricted Subsidiary, the fair market value of such Subsidiary to the extent the Investment in such Subsidiary was made pursuant to this clause (15), in an amount not to exceed the amount of such Investments previously made pursuant to this clause (15).

“Permitted Liens” means:

(1) Liens securing Hedging Obligations related to Indebtedness permitted to be incurred by the terms of the indenture;

(2) Liens in favor of the Borrower or any Subsidiary Guarantor;

(3) Liens on property of a Person existing at the time such Person becomes a Restricted Subsidiary or is merged with or into or consolidated with the Borrower or any Restricted Subsidiary of the Borrower; *provided* that such Liens were in existence prior to the contemplation of such acquisition, merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Borrower or the Subsidiary or that becomes a Subsidiary;

(4) Liens on property (including Capital Stock) existing at the time of acquisition of the property by the Borrower or any Restricted Subsidiary of the Borrower, provided that such Liens were in existence prior to, and not incurred in contemplation of, such acquisition;

(5) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by clause (4) of the second paragraph of the covenant described above under “Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock” covering only the assets acquired with or financed by such Indebtedness (including during any period that covenant described under “Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock” is suspended, as though such covenant was still in effect);

(6) Liens existing on the date of the Supplemental Indenture;

(7) Liens imposed by law, such as carriers', warehousemen's, landlord's and mechanics' Liens, in each case, incurred in the ordinary course of business;

(8) Liens created for the benefit of (or to secure) the Notes (or guarantees of the Notes) under the Senior Notes Indenture;

(9) Liens securing reimbursement obligations with respect to commercial letters of credit obtained in the ordinary course of business, consistent with past practices, which encumber documents and other property or assets relating to such letters of credit and products and proceeds thereof;

(10) Liens incurred or assumed in connection with the issuance of revenue bonds the interest on which is exempt from federal income taxation pursuant to Section 103(b) of the Internal Revenue Code, including, without limitation, liens as a cash collateral account securing existing reimbursement obligations with respect to a letter of credit issued pursuant thereto;

(11) customary Liens for the fees, costs and expenses of trustees and escrow agents pursuant to any indenture, escrow agreement or similar agreement establishing a trust or escrow arrangement;

(12) Liens on assets of the Borrower or any Restricted Subsidiary arising as a result of a sale and leaseback transaction with respect to such assets; *provided* that the proceeds from such sale and leaseback transaction are applied to the repayment of Indebtedness or acquisition of assets or the making of capital expenditures pursuant to the covenant described above under "Certain Covenants—Asset Sales;"

(13) Liens on accounts receivable and related property deemed to arise in connection with any Receivables Facility;

(14) the interest of a lessor or licensor under an operating lease or license under which the Borrower or any of its Restricted Subsidiaries are lessee, sublessee, or licensee, including protective financing statement filings;

(15) Limited Recourse Stock Pledges;

(16) Liens encumbering customary initial deposits and margin deposits, netting provisions and setoff rights, in each case securing Indebtedness under Hedging Obligations;

(17) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under the indenture; *provided, however*, that:

(a) the new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus improvements and accessions to, such property or proceeds or distributions thereof); and

(b) the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (x) the outstanding principal amount or, if greater, committed amount, of the Permitted Refinancing Indebtedness and (y) an amount necessary to pay any fees and expenses, including premiums, related to such refinancings, refunding, extension, renewal or replacement;

(18) Liens securing Indebtedness incurred pursuant to clause (1) and (12) of the definition of Permitted Debt (including during any period the covenant described above under “Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock” is suspended, as though such covenant was still in effect);

(19) Liens securing senior Indebtedness of the Borrower or any Restricted Subsidiary in an aggregate principal amount at the time of incurrence thereof not to exceed 10% of Tangible Assets;

(20) Liens on cash used to make a defeasance of Indebtedness permitted by the agreements governing such Indebtedness;

(21) Liens securing Indebtedness of Foreign Subsidiaries; and

(22) Liens with respect to obligations that do not exceed the greater of (i) 5.0% of Consolidated Net Tangible Assets and (ii) \$100.0 million at any one time outstanding.

“Permitted Refinancing Indebtedness” means any Indebtedness of the Borrower or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund other Indebtedness of the Borrower or any of its Restricted Subsidiaries (other than intercompany Indebtedness); *provided* that:

(1) the principal amount (or initial accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount outstanding, or in the case of a revolving line of credit, available (or accreted value, if applicable) of the Indebtedness extended, refinanced, renewed, replaced, defeased or refunded (plus all accrued interest on the Indebtedness and the amount of all expenses and premiums incurred in connection therewith);

(2) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded;

(3) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the Notes or the related Guarantees, such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and is subordinated in right of payment to, the Notes or the Guarantees, as applicable, on subordination terms at least as favorable to the Holders of the Notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; and

(4) such Indebtedness is incurred either by the Borrower or by the Restricted Subsidiary who is the obligor on the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded.

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

“Principals” means the descendants of T.T. Chao, including by adoption, and the spouses of any such individuals.

“Public Equity Offering” means any underwritten public equity offering of common stock of the Borrower yielding gross proceeds to the issuer (from sources other than a Subsidiary of the Borrower) of at least \$25.0 million.

“Public Notes” means \$250,000,000 aggregate principal amount of the Borrower’s 6-5/8% Senior Notes due 2016 issued under the Senior Indenture, as supplemented by the First Supplemental Indenture dated as of January 13, 2006.

“Receivables Facilities” means one or more receivables financing facilities or arrangements, as amended from time to time, pursuant to which the Borrower or any of its Restricted Subsidiaries sells (including a sale in exchange for a promissory note of or Equity Interest in an Accounts Receivable Subsidiary) its accounts receivable, related assets and the provision of billing, collection and other services in connection therewith, in each case to an Accounts Receivable Subsidiary.

“Receivables Fees” means distributions or payments made directly or by means of discounts with respect to any participation interests issued or sold in connection with, and other fees paid to a Person that is not the Borrower or a Restricted Subsidiary in connection with, any Receivables Facility.

“Registrar” means The Bank of New York Trust Company, N.A., or any successor registrar of the Notes.

“Related Party” means:

- (1) any controlling stockholder, 80% (or more) owned Subsidiary, or immediate family member (in the case of an individual) of any Principal; or
- (2) any Person, the beneficiaries, stockholders, partners, owners or Persons beneficially holding a 50% or more controlling interest of which consist of any one or more Principals and/or such other Persons referred to in the immediately preceding clause (1).

“Restricted Investment” means an Investment other than a Permitted Investment.

“Restricted Payments” has the meaning set forth under “Certain Covenants—Restricted Payments” above.

“Restricted Subsidiary” of a Person means any Subsidiary of the referent Person which is not an Unrestricted Subsidiary.

“S&P” means Standard & Poor’s Ratings Services.

“Securities” means a duly authorized issue of securities of the Borrower.

“Senior Indenture” means the Indenture dated as of January 1, 2006, among the Borrower, as issuer, the Potential Subsidiary Guarantors (as defined therein), as potential subsidiary guarantors, and The Bank of New York Trust Company, N.A. (as successor to JPMorgan Chase Bank, National Association), as trustee.

“Senior Notes Indenture” means the Senior Indenture, as supplemented by the Second Supplemental Indenture dated as of November 1, 2007, among the Borrower, as issuer, the Potential Subsidiary Guarantors (as defined therein), as potential subsidiary guarantors, and The Bank of New York Trust Company, N.A. (as successor to JPMorgan Chase Bank, National Association), as trustee.

“Significant Subsidiary” means any Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of the Senior Notes Indenture.

“Stated Maturity” means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

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

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

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

“Subsidiary Guarantors” means:

(1) each of the Subsidiaries of the Borrower listed on Schedule A to the Supplemental Indenture; and

(2) any other Subsidiary of the Borrower that executes a Guarantee in accordance with the provisions of the Senior Notes Indenture;

and their respective successors and assigns; *provided* that any Person constituting a Subsidiary Guarantor as described above shall cease to constitute a Subsidiary Guarantor when its respective Guarantee is released in accordance with the terms of the Senior Notes Indenture.

“Tangible Assets” means the total consolidated assets, less goodwill and intangibles, of the Borrower and its Restricted Subsidiaries, as determined in accordance with GAAP at the end of the most recent fiscal quarter for which financial statements are available in accordance with the provisions described under “Certain Covenants—Other Reports” above.

“Term Loan Facilities” means one or more facilities that make available term loan borrowings.

“Total Assets” means, as of any determination date, the total assets of the Borrower and its consolidated Subsidiaries, as determined in accordance with GAAP at the end of the most recent fiscal quarter for which financial statements are available in accordance with the covenant described under “Certain Covenants—Other Reports” above.

“Unrestricted Subsidiary” means (i) any Accounts Receivable Subsidiary, (ii) unless and until designated a Restricted Subsidiary in accordance with the terms of the Senior Notes Indenture, Westlake Trinidad Unlimited, Westlake International Investments Corporation, Westlake International Services

Corporation, Suzhou Huasu Plastics Co., Ltd., Westlake Profiles Limited and Westech Building Products Limited, (iii) any Subsidiary of an Unrestricted Subsidiary and (iv) any other Subsidiary of the Borrower that is designated by the Board of Directors as an Unrestricted Subsidiary pursuant to a Board Resolution, but only to the extent that such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Debt;

(2) is not party to any agreement, contract, arrangement or understanding with the Borrower or any Restricted Subsidiary of the Borrower unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Borrower or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Borrower;

(3) is a Person with respect to which neither the Borrower nor any of its Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Borrower or any of its Restricted Subsidiaries.

Any designation of a Subsidiary of the Borrower as an Unrestricted Subsidiary will be evidenced to the Trustee by filing with the Trustee a certified copy of the Board Resolution giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions and was permitted by the covenant described under "Certain Covenants—Restricted Payments" above. If, at any time, any Unrestricted Subsidiary designated after the date of the Supplemental Indenture would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of the Senior Notes Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of the Borrower as of such date and, if such Indebtedness is not permitted to be incurred as of such date under the covenant described under "Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock" above, the Borrower will be in default of such covenant. The Board of Directors of the Borrower may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Borrower of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation will only be permitted if (1) such Indebtedness is permitted under the covenant described under "Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock" above, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence following such designation. In the case of any designation by the Borrower of a Person as an Unrestricted Subsidiary on the first day that such Person is a Subsidiary of the Borrower in accordance with the terms of the Senior Notes Indenture, such designation shall be deemed to have occurred for all purposes of the Senior Notes Indenture simultaneously with, and automatically upon, such Person becoming a Subsidiary of the Borrower.

"Voting Stock" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

(1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by

(2) the then outstanding principal amount of such Indebtedness.

“Wholly-Owned Restricted Subsidiary” of any specified Person means a Restricted Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors’ qualifying shares) will at the time be owned by such Person or by one or more Wholly-Owned Restricted Subsidiaries of such Person and one or more Wholly-Owned Restricted Subsidiaries of such Person.

**Westlake Chemical Corporation*****Press Release****(713) 960-9111***Contact:** *David R. Hansen – Media Relations  
Steve Bender – Investor Relations***Westlake Chemical Closes Offering of \$250 Million Tax-Exempt Bonds**

Houston, Texas, December 13, 2007 /PRNewswire/ – Westlake Chemical Corporation (NYSE:WLK) announced today that it has completed the issuance of \$250 million of tax-exempt revenue bonds due November 1, 2032 with an interest rate of 6 3/4 % per annum (the “Bonds”). The Bonds were issued through the Louisiana Local Government Environmental Facilities and Community Development Authority, a political subdivision of the State of Louisiana. The proceeds from the Bond offering, which were issued under the Gulf Opportunity Zone Act of 2005, will be loaned by the Authority to Westlake Chemical Corporation. Westlake Chemical intends to use the proceeds of the bonds to expand, refurbish and maintain certain of its facilities in the Louisiana Parishes of Calcasieu and Ascension. Pursuant to the Loan Agreement that Westlake Chemical entered into with the Authority, Westlake Chemical is obligated to pay principal and interest on the Bonds. In connection with the issuance of the Bonds, Westlake Chemical issued \$250 million of its 6 3/4 % Senior Notes due 2032 (the “Senior Notes”) to evidence and secure its payment obligations to the Authority under the Loan Agreement. The Senior Notes are unsecured and will rank equally in right of payment with other existing and future unsecured senior indebtedness of Westlake.

Albert Chao, Westlake Chemical’s Chief Executive Officer and President, stated, “We are pleased to have received this allocation of tax-exempt GO Zone Bonds from the State of Louisiana and to have completed this offering which increases our financial flexibility going forward and helps to fund our growth in Louisiana.”

This release shall not constitute an offer to sell or the solicitation of an offer to buy any securities nor shall there be any sale of these securities in any state in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state.

**Westlake Chemical Corporation (WLK)**

Westlake Chemical Corporation is a manufacturer and supplier of petrochemicals, polymers and fabricated products with headquarters in Houston, Texas. The company’s range of products includes: ethylene, polyethylene, styrene, propylene, caustic, VCM, PVC and PVC pipe, windows and fence. For more information, visit the company’s Web site at <http://www.westlake.com>.

*The statements in this release relating to the proposed use of proceeds of the Bonds, as well as any other matters that are not historical facts, are forward-looking statements that are subject to risks and uncertainties. Actual results could differ materially. For more detailed information about factors that could cause actual results to differ materially, please refer to Westlake's Annual Report on Form 10-K for the year ended December 31, 2006, which was filed in February 2007.*