

## DRAFT DESCRIPTION OF 2014 NOTES<sup>1</sup>

### General

In this Description of 2014 Notes, (i) the term “*the Company*” refers only to LyondellBasell Industries N.V. and (ii) the term “Issuer” refers only to Lyondell Chemical Company, an indirect subsidiary of the Company. Additionally, the term “Guarantors” refers to any Person (other than the Issuer) that executes the Indenture relating to the Notes or who executes a supplemental indenture in which such Person agrees to be bound by the terms of the Indenture as a guarantor, as more fully described under “—The Guarantees.”

The Issuer will issue the Notes under the Indenture, pursuant to the Reorganization Plan if the Class of DIP Roll-Up Claims votes against the Reorganization Plan. The terms of the Notes will be included in the Indenture.

The following summary of certain provisions of the Indenture, the Notes, the Security Documents and the Junior Lien Intercreditor Agreement does not purport to be complete and is subject to, and is qualified in its entirety by reference to, all the provisions of those agreements, including the definitions of certain terms therein and those terms made a part thereof by the TIA. Capitalized terms used in this “Description of 2014 Notes” and not otherwise defined have the meanings set forth under “—Certain Definitions.”

The Issuer will issue Notes with an initial aggregate principal amount of \$[ ].<sup>2</sup> The Issuer may issue additional Notes from time to time after this offering. Any offering of additional Notes is subject to the covenants described under “—Certain Covenants—Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens” and “—Certain Covenants—Limitation on Liens.” The Notes and any additional Notes subsequently issued under the Indenture may, at our election, be treated as a single class for all purposes under the Indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase. Unless the context otherwise requires, for all purposes of the Indenture and this “Description of 2014 Notes,” references to the Notes include any additional Notes actually issued. There can be no assurances, however, that any additional Notes subsequently issued under the Indenture will be treated as fungible with the Notes of the relevant series for United States federal income tax purposes or under the laws of any other jurisdiction.

Principal of, premium, if any, and interest on the Notes will be payable, and the Notes may be exchanged or transferred, at the office or agency designated by the Issuer (which initially will be the principal corporate trust office of [TBD], as Paying Agent).

The Notes will be issued by the Issuer in denominations of \$100,000 and integral multiples of \$1,000, respectively, in excess thereof.

### Terms of the Notes

The Notes will be senior Obligations of the Issuer, will have the benefit of the third priority security interest in the Notes Collateral and third priority security interest in the ABL Facility Collateral described under “—Security” and will mature on December 15, 2014. Each Note will bear interest at a rate equal to the lowest interest rate possible in compliance with Section 1129(b) of the Bankruptcy Code. Each Note will bear interest from the Issue Date or from the most recent date to which interest has been paid or provided for, payable semiannually to holders of record at the close of business on the April 15 or October 15 immediately preceding the interest payment date on [ ] 1 and [ ] 1 of each year, commencing [ ], 2010.

The Notes will be secured by liens on the Notes Collateral and the ABL Facility Collateral described under “—Security.”

### Redemption

#### *Optional Redemption*

The Issuer may redeem the Notes (including any additional Notes) at its option, in whole at any time or in part from time to time, upon not less than 10 nor more than 60 days’ prior notice mailed by first-class mail to each holder’s registered address, at a redemption price equal to 100% of the principal amount thereof plus the accrued and unpaid interest to, but not including, the applicable redemption date (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date).

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<sup>1</sup> In the event of any discrepancy between this Draft Description of 2014 Notes and the 2014 Indenture, this Draft Description of 2014 Notes will control. The 2014 Notes are the “Cram Down Notes” as defined in the Reorganization Plan.

<sup>2</sup> Principal amount of Claims of holders of DIP Roll-Up Loans who vote against the Plan.

Any notice of redemption may be given prior to the completion of any event or transaction related to such redemption, and any such redemption or notice may, at the Issuer's discretion, be subject to one or more conditions precedent, including in the case of any Equity Offering, completion of such Equity Offering. In addition, if such redemption or notice is subject to satisfaction of one or more conditions precedent, such notice shall state that, in the Issuer's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the redemption date, or by the redemption date so delayed.

## **Selection**

Selection of Notes for redemption will be made by the Trustee on a *pro rata* basis to the extent practicable; *provided* that no Notes of \$100,000, principal amount or less shall be redeemed in part. If any Note is to be redeemed in part only, the notice of redemption relating to such Note shall state the portion of the principal amount thereof to be redeemed. A new Note in principal amount equal to the unredeemed portion thereof will be issued in the name of the holder thereof upon cancellation of the original Note. On and after the redemption date, interest will cease to accrue on Notes or portions thereof called for redemption so long as the Issuer has deposited with the Paying Agent funds sufficient to pay the principal of, plus accrued and unpaid interest and additional interest (if any) on, the Notes to be redeemed.

If less than all the Notes are to be redeemed at any time in connection with an optional redemption, the Trustee will select Notes for redemption as follows:

if the Notes to be redeemed are listed, in compliance with the requirements of the principal national securities exchange on which such Notes are listed; or

if the Notes to be redeemed are not so listed, on a *pro rata* basis, by lot or by such method as the Trustee shall deem fair and appropriate.

## **Offers to Purchase; Open Market Purchases**

The Issuer will not be required to make any mandatory redemption or sinking fund payments with respect to the Notes.

The Company, its Subsidiaries or any Affiliates of the Company may at any time and from time to time purchase Notes in the open market or otherwise.

## **Ranking**

The Indebtedness evidenced by the Notes will be senior third-priority Indebtedness of the Issuer and the Guarantors, and will rank *pari passu* in right of payment with all existing and future senior Indebtedness of the Issuer and will be senior in right of payment to all existing and future Subordinated Indebtedness of the Issuer. After the Issue Date, the Notes will have the benefit of (i) a third priority security interest in the Notes Collateral that will be *pari passu* in priority with all other existing and future Third Priority Lien Obligations, including the New Third Lien Notes, with respect to all Notes Collateral, (ii) a third priority security in the ABL Facility Collateral that will be *pari passu* in priority with all other existing and future Third Priority Lien Obligations, including the New Third Lien Notes, in each case subject to Permitted Liens and exceptions described under “—Security—General.” In addition, after the Issue Date, the Notes will be junior in priority to the Senior Term Loan Facility, the First Lien Notes, the ABL Facility and all other existing and future First and Second Priority Lien Obligations with respect to all Collateral.

## **The Guarantees**

### ***The Guarantors***

The Company, each existing and subsequently acquired or organized direct or indirect Wholly Owned Domestic Subsidiary of the Company (other than any Excluded Subsidiary (each such entity, a “*Guarantor*”) will irrevocably and unconditionally guarantee on a senior third-priority basis the performance and punctual payment when due, whether at Stated Maturity, by acceleration or otherwise, of all Obligations of the Issuer under the Indenture and the Notes (the “*Guarantee*”). Such Guarantors will agree that they will pay principal of, premium, if any, interest and additional interest, if any, on the Notes, expenses, indemnification or otherwise. Such Guarantors will agree to pay, in addition to the amounts stated above, any and all expenses (including reasonable counsel fees and expenses) incurred by the Trustee or the holders in enforcing any rights under the Guarantees.

The Guarantees of the Notes will be:

senior third-priority secured Obligations of the Guarantors; and

equal in right of payment to all existing and future unsubordinated Indebtedness of the Guarantors.

The Obligations of any Guarantor, including the Company, under its Guarantee of the Notes will be automatically and unconditionally released and discharged when any of the following occurs:

- (1) upon the full and final payment by or on behalf of the Issuer of all of its Obligations under the Indenture and the Notes;
- (2) except with respect to the Guarantee of the Company, any issuance, sale, exchange, transfer or other disposition (including, without limitation, by way of acquisition, merger, amalgamation, consolidation, transfer, conveyance or otherwise), directly or indirectly, of Capital Stock of such Guarantor (or any parent of such Guarantor) to any Person that is not a Restricted Subsidiary of the Company that results in such Guarantor ceasing to be a Restricted Subsidiary of the Company; *provided* that such issuance, sale, exchange, transfer or other disposition is made in accordance with the provisions of the Indenture;
- (3) except with respect to the Guarantee of the Company, the designation of such Guarantor as an Unrestricted Subsidiary in accordance with the provisions of the Indenture;
- (4) except with respect to the Guarantee of the Company, upon the liquidation or dissolution of such Guarantor; *provided* that no Default or Event of Default has occurred or is continuing or would be caused thereby;
- (5) except for the guarantee by the Company, the occurrence of legal defeasance or covenant defeasance in accordance with the Indenture;
- (6) except for Guarantee by the Company and for those limitations described in the following paragraph, in the event that the continued Obligation of such Guarantor under its Guarantee or the continued existence of such Guarantee will result in a violation of applicable law that cannot be avoided or otherwise prevented through measures reasonably available to the Company or such Guarantor; *provided* that all guarantees, if any, of all other First Priority Lien Obligations by such Guarantor are also released; or
- (7) upon such Guarantor being designated as an Excluded Subsidiary in compliance with the Indenture and the Company gives written notice of such release to the Trustee.

In addition to the initial Guarantors, other Domestic Subsidiaries may become Guarantors after the Issue Date, as provided in the Indenture. The Obligations of the Guarantors under their Guarantees will be limited as necessary to recognize certain defenses generally available to guarantors (including those that relate to fraudulent conveyance or transfer, voidable preference, financial assistance, corporate purpose, capital maintenance or similar laws, regulations or defenses affecting the rights of creditors generally) or other considerations under applicable law.

### ***Withholding Taxes***

All payments made under or with respect to the Notes and the Guarantees by (i) the Issuer, (ii) the Company or (iii) any entity that becomes a successor of the Issuer or the Company that is organized in a jurisdiction other than the United States, any state thereof or the District of Columbia as a result of a merger or other transaction permitted by provisions of the Indenture (each such person, a “Payor”) will be made free and clear of and without withholding or deduction for or on account of any present or future tax, duty, levy, impost, assessment or other governmental charge (including, without limitation, penalties, interest and other similar liabilities related thereto) of whatever nature (collectively, “Taxes”) imposed or levied by or on behalf of any jurisdiction in which any Payor is organized, resident or doing business for tax purposes or from or through which any Payor makes any payment on the Notes or its Guarantee or any department or political subdivision thereof (each, a “Relevant Taxing Jurisdiction”), unless such Payor is required to withhold or deduct Taxes by law. If any Payor is required by law to withhold or deduct any amount for or on account of Taxes of a Relevant Taxing Jurisdiction from any payment made under or with respect to the Notes or such Guarantee, the Payor shall make all such deductions and withholdings in respect of Taxes, and shall pay the full amount deducted or withheld in respect of Taxes to the relevant taxation authority or other governmental authority in accordance with the applicable requirements of law. If any Payor is so required by law to withhold or deduct, such Payor shall not be obligated to pay any additional amounts in respect of such withholding or deduction on account of Taxes to the holders of the Notes.

### ***Security***

#### ***General***

The Notes and the Guarantees will be secured by third priority security interests in the Notes Collateral and by third priority security interests in the ABL Facility Collateral, in each case subject to Permitted Liens and on a *pari passu* basis with the Third Priority Lien Obligations, including the New Third Lien Notes. The First Lien Notes and the Senior Term Loan Facility will be secured by first priority security interests in the Notes Collateral and second priority security interests in the ABL Facility Collateral. The ABL Facility will be secured by first priority security interests in the ABL Facility Collateral and second priority security interests in the Notes Collateral.

The “*Notes Collateral*” will consist of substantially all the present and after-acquired assets of the Issuer and the Pledgors, including, without limitation, the following property: all accounts receivable and inventory (other than the ABL Facility Collateral), equipment, general intangibles, investment property, intellectual property, Owned Real Property (subject to clause (i) of the definition of “*Excluded Assets*” as described below), 65% of the voting Capital Stock and 100% of the non-voting Capital Stock of all first-tier Foreign Subsidiaries of the Issuer and 100% of the Capital Stock of all Domestic Subsidiaries of the Issuer and each Pledgor, intercompany notes and proceeds of the foregoing of the Issuer and each Pledgor and 65% of the voting Capital Stock of all first-tier Foreign Subsidiaries of the Company and 100% of the non-voting Capital Stock of all first-tier Foreign Subsidiaries of the Company and 100% of the Capital Stock of all Domestic Subsidiaries of the Company, including the Issuer.

The Notes Collateral will not include, subject to certain exceptions, (i) any fee-Owned Real Property with a value of less than \$25.0 million and all leasehold interests (other than interest in ground leases agreed on the Issue Date), (ii) motor vehicles and other assets subject to certificates of title, letter of credit rights and commercial tort claims, (iii) assets specifically requiring perfection through control agreements (i.e., cash, deposit accounts or other bank or securities accounts, etc.), (iv) the Capital Stock of any Joint Venture, or of any special purpose subsidiary whose material assets are comprised solely of the Capital Stock of such Joint Venture, where the pledge of such Capital Stock would be prohibited by any applicable contractual requirement pertaining to such Joint Venture, (v) the ABL Facility Collateral, (vi) preferred stock issued in connection with a Structured Finance Transaction that is (x) on the Issue Date is subject to an existing Lien on the Issue Date or (y) prohibited from being pledged, and (vii) certain other exceptions described in the Security Documents (all such excluded assets referred to as “*Excluded Assets*”).

In addition, to the extent that Rule 3-16 of Regulation S-X under the Securities Act requires or would require (or is replaced with another rule or regulation, or any other law, rule or regulation is adopted, that would require) the filing with the SEC (or any other governmental agency) of separate financial statements of any Subsidiary of the Company due to the fact that such Subsidiary’s Capital Stock secures the Notes or any First Priority Lien Obligation, Second Priority Lien Obligation or Third Priority Lien Obligation, then the Capital Stock of such Subsidiary will automatically be deemed not to be part of the Notes Collateral securing the Notes but only to the extent necessary to not be subject to such requirement and only for so long as required to not be subject to such requirement (such requirement, the “*3-16 Exemption*”); *provided* that the 3-16 Exemption will not apply to the capital stock of the Issuer and LyondellBasell Subholdings, B.V. In such event, the Security Documents may be amended or modified, without the consent of any holder of such Notes, to the extent necessary to release the security interests in favor of the Collateral Agent on the shares of Capital Stock of such Subsidiary that are so deemed to no longer constitute part of the Notes Collateral. In the event that Rule 3-16 of Regulation S-X under the Securities Act is amended, modified or interpreted by the SEC to permit (or is replaced with another rule or regulation, or any other law, rule or regulation is adopted, that would permit) such Subsidiary’s Capital Stock to secure the Notes in excess of the amount then pledged without the filing with the SEC (or any other governmental agency) of separate financial statements of such Subsidiary, then the Capital Stock of such Subsidiary will automatically be deemed to be a part of the Notes Collateral.

The “*ABL Facility Collateral*” will consist of all present and after-acquired inventory, accounts receivable, related contracts and other rights, deposit accounts into which proceeds of the foregoing are credited and books and records related thereto, together with all proceeds of the foregoing, in each case to the extent of the rights, title and interest therein of any “*Borrower*” under the ABL Facility.

In connection with any enforcement action with respect to the Notes Collateral or any Insolvency or Liquidation Proceeding, all proceeds of the Notes Collateral (after paying the fees and expenses of the First Lien Notes Collateral Agent, Escrow Agent, Senior Term Loan Collateral Agent, First Lien Paying Agent and First Lien Trustee and any expenses of selling or otherwise foreclosing on the Notes Collateral) will be applied *pro rata* to the repayment of the Obligations under the First Lien Notes and the other then outstanding First and Second Priority Lien Obligations. In connection with any enforcement action with respect to the ABL Facility Collateral or any Insolvency or Liquidation Proceeding, all proceeds of the ABL Facility Collateral (after paying the fees and expenses of the ABL Collateral Agent and any expenses of selling or otherwise foreclosing on such collateral) will be applied to the repayment of the Obligations under the ABL Facility, with any excess proceeds of such enforcement action applied to the repayment of the Obligations under the First Lien Notes and the other then outstanding First and Second Priority Lien Obligations on a *pro rata* basis after payment of all fees and expenses of the First Lien Notes Collateral Agent, Senior Term Loan Collateral Agent, Escrow Agent, First Lien Paying Agent and First Lien Trustee. In connection with any enforcement action with respect to the Notes Collateral, the ABL Collateral or any Insolvency or Liquidation Proceeding, any remaining proceeds of the Notes Collateral and/or the ABL Collateral, as the case may be, after payment of the fees and expenses and repayment of the Obligations as set forth in the previous two sentences, will be applied *pro rata* to the repayment of the Notes Obligations and the other then outstanding Third Priority Lien Obligations, including the Obligations in respect of the New Third Lien Notes. The Company, the Issuer and the Pledgors will be able to Incur additional Indebtedness in the future that could share in the Collateral, including Additional First and Second Priority Lien Obligations. The amount of such First and Second Priority Lien Obligations and additional Indebtedness is limited by the covenants described under “—Certain Covenants—Limitation on Liens”, “—Certain Covenants—Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens” and “—Certain Covenants—Limitation on Sale/Leaseback Transactions.” Under certain circumstances, the amount of such Additional First and Second Priority Lien Obligations and additional Indebtedness could be significant.

### ***After-Acquired Collateral***

Subject to certain limitations and exceptions (including the 3-16 Exemption and the Excluded Assets limitations and exception and subject to Permitted Liens), if any of the Issuer, the Company or any Pledgor creates any additional security interest upon any property or asset that would constitute Notes Collateral to secure any First Priority Lien Obligations (which include Obligations in respect of Secured Credit Facility Indebtedness), it must concurrently grant (i) a first priority security interest (subject to Permitted Liens) upon such property as security for the First Lien Notes and the Senior Term Loan Facility, (ii) a second priority security interest upon such property as security for the ABL Facility and (iii) a third priority security interest upon such property as security for the Notes and the New Third Lien Notes. In addition, if granting a security interest in such property requires the consent of a third party, the Company will use commercially reasonable efforts to obtain such consent (i) with respect to the first priority security interest for the benefit of the First Lien Notes Collateral Agent on behalf of the holders of the First Lien Notes and for the benefit of the Senior Term Loan Collateral Agent on behalf of the lenders under the Senior Term Loan Facility, (ii) with respect to the second priority security interest for the benefit of the ABL Collateral Agent on behalf of the lenders under the ABL Facility and (iii) with respect to the third priority security interest for the benefit of the Trustee in respect of the Notes on behalf of the holders of the Notes and for the benefit of the Third Lien Trustee on behalf of the holders of the New Third Lien Notes. If such third party does not consent to the granting of the third priority security interest after the use of such commercially reasonable efforts, the applicable entity will not be required to provide such security interest. The Issuer, the Company and the Pledgors will also ensure that third priority security interests are maintained as security for the Notes in any ABL Facility Collateral pledged to secure the ABL Facility.

### ***Security Documents***

The Company, the Issuer, the Pledgors, the Trustee and the Collateral Agent will enter into a collateral agreement (as amended, supplemented, modified, extended, restructured, renewed, restated or replaced in whole or in part from time to time, the “*Collateral Agreement*”) establishing the terms of the security interests and Liens that secure the Notes. These security interests will secure the payment and performance when due of all of the Obligations of the Issuer under the Notes and the Indenture and the Guarantors under the Guarantee, as provided in the Security Documents.

Subject to the terms of the Security Documents, the Company, the Issuer and the Pledgors will have the right to remain in possession and retain exclusive control of the Notes Collateral (other than any cash, securities, Obligations and Cash Equivalents constituting part of the Notes Collateral and deposited with the administrative agent under the Senior Term Loan Facility in accordance with the provisions of the Security Documents and other than as set forth in the Security Documents), to freely operate the Notes Collateral and to collect, invest and dispose of any income therefrom.

### ***Junior Lien Intercreditor Agreement***

On the Issue Date, the First Lien Notes Collateral Agent, on its own behalf and on behalf of the First Lien Secured Parties under the First Lien Indenture, the Senior Term Loan Collateral Agent, on its own behalf and on behalf of the First Lien Secured Parties under the Senior Term Loan Facility, the ABL Collateral Agent, on its own behalf and on behalf of the administrative agent and lenders under the ABL Facility and the Plan Roll-Up Notes Trustee, on behalf of the holders of the Third Priority Lien Obligations and the trustees, collateral agents and Authorized Representatives thereof (the Plan Roll-Up Notes Trustee, together with the First Lien Notes Collateral Agent, the Senior Term Loan Collateral Agent and the ABL Collateral Agent, the “*Applicable Collateral Agents*”), the Company, the Issuer and the Pledgors will enter into an intercreditor agreement (the “*Junior Lien Intercreditor Agreement*”) that sets forth the relative priority of the Liens securing any First Priority Lien Obligations, the Liens securing the ABL Obligations and the Liens securing any Third Priority Lien Obligations, including the Plan Roll-Up Notes (collectively, the “*Applicable Obligations*”). Although the holders of First Priority Lien Obligations, ABL Obligations and Third Priority Lien Obligations will not be party to the Junior Lien Intercreditor Agreement, by their acceptance of the First Lien Notes, the loans under the Senior Term Loan Facility, the loans under the ABL Facility or the Plan Roll-Up Notes, respectively, each will agree to be bound thereby. In addition, the Junior Lien Intercreditor Agreement will provide that it may be amended from time to time without the consent of the holders of the First Lien Notes to add Additional First Lien Secured Parties with respect to Additional First Priority Lien Obligations and/or additional secured parties with respect to Additional Third Priority Lien Obligations, and the Third Lien Intercreditor Agreement will provide that it may be amended from time to time without the consent of the holders of the Plan Roll-Up Notes to add additional secured parties with respect to Additional Third Priority Lien Obligations in each case to the extent permitted to be Incurred under the First Lien Indenture, the Senior Term Loan Facility, the ABL Facility and the Plan Roll-Up Notes Indentures.

The Junior Lien Intercreditor Agreement will provide, among other things:

*Lien Priority.* Notwithstanding the time, order or method of grant, creation, attachment or perfection of any Liens securing any ABL Obligations (the “*ABL Facility Liens*”), the Liens securing any First Priority Lien Obligations (the “*First Priority Obligation Liens*”) or the Liens securing any Third Priority Lien Obligation (the “*Junior Priority Liens*”) or the enforceability of any such Liens or Obligations, (1) the ABL Facility Liens on the ABL Facility Collateral will rank senior to any First Priority Obligation Liens or Junior Priority Liens on the ABL Facility Collateral, (2) the First Priority Obligation Liens on the Notes Collateral will rank senior to any ABL Facility Liens or Junior Priority Liens on the Notes Collateral, (3) the ABL

Facility Liens on the Notes Collateral will rank senior to any Junior Priority Liens on the Notes Collateral, (4) the First Priority Obligation Liens on the ABL Facility Collateral will rank senior to any Junior Priority Liens on the ABL Facility Collateral and (5) the Junior Priority Liens on all Collateral will rank junior to the ABL Facility Liens on all Collateral and the First Priority Obligation Liens on all Collateral.

*Prohibition on Contesting Liens and Obligations.* No Applicable Collateral Agent or holder of any Applicable Obligation may contest or support any other person in contesting the validity or enforceability of the Liens of any other Applicable Collateral Agent or holder of any other class of Applicable Obligations.

*Similar Liens.* So long as there are at least two classes of Applicable Obligations outstanding, neither the Company nor any Guarantor will grant any Lien to secure any class of Applicable Obligations unless the Company or such Guarantor has granted a Lien to secure each other class of then outstanding Applicable Obligations; *provided* that (i) the Company may secure obligations under the Plan Roll-Up Notes with Liens on certain European assets of the Company and its Restricted Subsidiaries to the extent permitted by the Senior Term Loan Facility, the ABL Facility and the Plan Roll-Up Notes Indentures, without granting a Lien on such European assets to secure the ABL Obligations or any First Priority Lien Obligations and (ii) the foregoing provisions shall not be deemed violated by virtue of the operation of the 3-16 Exemption with respect to the First Lien Notes or the Plan Roll-Up Notes. Any proceeds from any Lien granted in contravention of the foregoing will be subject to distribution in accordance with “—Application of Proceeds and Turn-Over Provisions” below.

*Exercise of Remedies and Release of Liens with Respect to ABL Facility Collateral.* Subject to the provisions described below under “—Standstill Period,” the ABL Collateral Agents will have the sole power to exercise remedies against the ABL Facility Collateral (subject to the right of any First Lien Collateral Agent and the Plan Roll-Up Notes Trustee to take limited protective measures with respect to the First Priority Obligation Liens and the Junior Priority Liens, respectively, and to take certain actions that would be permitted to be taken by unsecured creditors) and to foreclose upon and dispose of the ABL Facility Collateral. Subject to the provisions described below under “—Standstill Period,” after the Discharge of ABL Obligations, if any First Priority Lien Obligations remain outstanding, the First Lien Collateral Agents will have the sole power to exercise remedies against the ABL Facility Collateral (subject to the right of the Plan Roll-Up Notes Trustee to take limited protective measures with respect to the Junior Priority Liens and to take certain actions that would be permitted to be taken by unsecured creditors) and to foreclose upon and dispose of the ABL Facility Collateral. After the Discharge of First Priority Lien Obligations, the Plan Roll-Up Notes Trustee shall be permitted to exercise remedies against the ABL Collateral. The Applicable Collateral Agent that is then entitled to exercise remedies against the ABL Facility Collateral pursuant to the three prior sentences shall be referred to as the “*Authorized ABL Collateral Agent*” and each other Applicable Collateral Agent at such time shall be referred to as the “*Non-Authorized ABL Collateral Agent*.” Upon any sale of any ABL Facility Collateral in connection with any enforcement action consented to by the Authorized ABL Collateral Agent, which results in the release of the Liens of such Authorized ABL Collateral Agent on such item of ABL Facility Collateral, the Liens of each other class of Applicable Obligations on such item of ABL Facility Collateral will be automatically released.

*Exercise of Remedies and Release of Liens with Respect to Notes Collateral.* Subject to the provisions described below under “—Standstill Period,” the First Lien Collateral Agents (subject to the terms of the First Lien Intercreditor Agreement) will have the sole power to exercise remedies against the Notes Collateral (subject to the right of the ABL Collateral Agent and the Plan Roll-Up Notes Trustee to take limited protective measures with respect to the ABL Facility Liens and the Junior Priority Liens, respectively, and to take certain actions that would be permitted to be taken by unsecured creditors) and to foreclose upon and dispose of the Notes Collateral. Subject to the provisions described below under “—Standstill Period,” after the Discharge of First Priority Lien Obligations, if any ABL Obligations remain outstanding, the ABL Collateral Agent will have the sole power to exercise remedies against the Notes Collateral (subject to the right of the Plan Roll-Up Notes Trustee to take limited protective measures with respect to the Junior Priority Liens and to take certain actions that would be permitted to be taken by unsecured creditors) and to foreclose upon and dispose of the Notes Collateral. After the Discharge of ABL Obligations, the Plan Roll-Up Notes Trustee shall be permitted to exercise remedies against the Notes Collateral. The Applicable Collateral Agent that is then entitled to exercise remedies against the Notes Collateral pursuant to the three prior sentences shall be referred to as the “*Authorized Notes Collateral Agent*” and each other Applicable Collateral Agent at such time shall be referred to as the “*Non-Authorized Notes Collateral Agent*.” Upon any sale of any Notes Collateral in connection with any enforcement action consented to by the Authorized Notes Collateral Agent, which results in the release of the Liens of such Authorized Notes Collateral Agent on such item of Notes Collateral, the Liens of each other class of Applicable Obligations on such item of Notes Collateral will be automatically released.

*Application of Proceeds and Turn-Over Provisions.* In connection with any enforcement action with respect to the Collateral or including in respect of any Insolvency or Liquidation Proceeding, (x) (1) all proceeds of ABL Facility Collateral will first be applied to the repayment of all ABL Obligations, before being applied to any First Priority Lien Obligations or any Third Priority Lien Obligations; (2) after the Discharge of ABL Obligations, if any First Priority Lien Obligations remain outstanding, all proceeds of ABL Facility Collateral will first be applied to the repayment of any outstanding First Priority Lien Obligations in accordance with the First Lien Intercreditor Agreement, before being applied to any Third Priority Lien Obligations; and (3) after the Discharge of First Priority Lien Obligations, all proceeds of ABL Facility Collateral will be

applied to the repayment of Third Priority Lien Obligations (the class of Applicable Obligations that is then entitled to receive the proceeds of ABL Facility Collateral pursuant to the foregoing shall be referred to as the “*Authorized ABL Class of Obligations*” and each class of Applicable Obligations that is then not entitled to receive proceeds of ABL Facility Collateral pursuant to the foregoing shall be referred to as a “*Non-Authorized ABL Class of Obligations*”); and (y)(1) all proceeds of Notes Collateral shall be applied to First Priority Lien Obligations in accordance with the First Lien Intercreditor Agreement, before being applied to ABL Obligations or any Third Priority Lien Obligations; (2) after the Discharge of First Priority Lien Obligations, if any ABL Obligations remain outstanding, all proceeds of Notes Collateral will first be applied to the repayment of any outstanding ABL Obligations, before being applied to any Third Priority Lien Obligations; and (3) after the Discharge of ABL Obligations, all proceeds of Notes Collateral will be applied to the repayment of Third Priority Lien Obligations (the class of Applicable Obligations that is then entitled to receive the proceeds of Notes Collateral pursuant to the foregoing shall be referred to as the “*Authorized Notes Class of Obligations*” and each class of Applicable Obligations that is not then entitled to receive proceeds of Notes Collateral pursuant to the foregoing shall be referred to as a “*Non-Authorized Notes Class of Obligations*”). If any holder of any Applicable Obligations or if any Applicable Collateral Agent receives any proceeds of Collateral in contravention of the foregoing, such proceeds will be turned over to the Applicable Collateral Agent entitled to receive such proceeds pursuant to the prior sentence, for application in accordance with the prior sentence.

*Amendment and Refinancings.* The ABL Obligations, the First Priority Lien Obligations and the Third Priority Lien Obligations may be amended or refinanced subject to continuing rights of the holders of such refinancing Indebtedness under the Junior Lien Intercreditor Agreement.

*Certain Matters in Connection with Liquidation and Insolvency Proceedings.*

*Debtor-in-Possession Financings with Respect to ABL Facility Collateral.* In connection with any Insolvency or Liquidation Proceeding of the Company, the Issuer or any Pledgor, in the case of the ABL Facility Collateral, (x) the Authorized ABL Collateral Agents may consent to certain debtor-in-possession financings secured by a Lien on the ABL Facility Collateral ranking prior to the Liens of the Non-Authorized ABL Collateral Agents on the ABL Facility Collateral or to the use of cash collateral constituting proceeds of the ABL Facility Collateral without the consent of any holder of any Non-Authorized ABL Class of Obligations or any other Non-Authorized ABL Collateral Agent, and none of the holders of any Non-Authorized ABL Class of Obligations or any other Non-Authorized ABL Collateral Agent shall be entitled to object to such use of cash collateral or debtor-in-possession financing or to seek “adequate protection” in connection therewith (other than in the form of a junior lien in accordance with the terms of the Junior Lien Intercreditor Agreement on any additional items of collateral for the Authorized ABL Class of Obligations which are granted in connection with such debtor-in-possession financing or use of cash collateral).

*Debtor-in-Possession Financings with Respect to Notes Collateral.* In connection with any Insolvency or Liquidation Proceeding of the Company, the Issuer or any Pledgor, in the case of the Notes Collateral, the Authorized Notes Collateral Agent may consent to certain debtor-in-possession financings secured by a Lien on the Notes Collateral ranking prior to the Liens of the Non-Authorized Notes Collateral Agents on the Notes Collateral or to the use of cash collateral constituting proceeds of the Notes Collateral without the consent of any holder of any Non-Authorized Notes Class of Obligations or any other Non-Authorized Notes Collateral Agent, and none of the holders of any Non-Authorized Notes Class of Obligations or any other Non-Authorized Notes Collateral Agent shall be entitled to object to such use of cash collateral or debtor-in-possession financing or to seek “adequate protection” in connection therewith (other than in the form of a junior lien in accordance with the terms of the Junior Lien Intercreditor Agreement on any additional items of collateral for the Authorized Notes Class of Obligations which are granted in connection with such debtor-in-possession financing or use of cash collateral).

*Relief from Automatic Stay; Bankruptcy Sales and Post-Petition Interest with Respect to ABL Facility Collateral.* In the case of ABL Facility Collateral, none of the holders of any Non-Authorized ABL Class of Obligations nor any Non-Authorized ABL Collateral Agent may (A) seek relief from the automatic stay with respect to any ABL Facility Collateral, (B) object to any sale of any ABL Facility Collateral in any Insolvency or Liquidation Proceeding which has been consented to by the Authorized ABL Collateral Agent or (C) object to any claim of any holder of any Authorized Class of ABL Obligations or Authorized ABL Collateral Agent to post-petition interest, fees or expenses to the extent of the value of the ABL Facility Collateral, such value to be determined without regard to the existence of the ABL Liens securing any other Non-Authorized ABL Class of Obligations.

*Relief from Automatic Stay; Bankruptcy Sales and Post-Petition Interest with Respect to Notes Collateral.* In the case of Notes Collateral, none of the holders of any Non-Authorized Notes Class of Obligations nor any Non-Authorized Notes Collateral Agent may (A) seek relief from the automatic stay with respect to any Notes Collateral, (B) object to any sale of any Notes Collateral in any Insolvency or Liquidation Proceeding which has been consented to by the Authorized Notes Collateral Agent or (C) object to any claim of any holder of any Authorized Class of First Lien Notes Obligations or Authorized Notes Collateral Agent to post-petition interest, fees or expenses

to the extent of the value of the Notes Collateral, such value to be determined without regard to the existence of the First Priority Liens securing any other Non-Authorized Notes Class of Obligations.

*Adequate Protection.* None of any holder of Applicable Obligations nor any Applicable Collateral Agent may, except as expressly provided above, seek adequate protection on account of its Lien on ABL Facility Collateral other than in the form of junior priority liens; *provided, however*, that the holders of the Authorized ABL Class of Obligations and the Authorized ABL Collateral Agent may seek adequate protection with respect to the ABL Facility Collateral and the holders of the Authorized Notes Class of Obligations and the Authorized Notes Collateral Agent may seek adequate protection with respect to the Notes Collateral.

*Plans of Reorganization.* No Applicable Collateral Agent or holder of Applicable Obligations may support any plan of reorganization or file any proof of claim in any Insolvency or Liquidation Proceeding which, in either case, is not in accordance with the intercreditor provisions described above.

*Standstill Period.* The Junior Lien Intercreditor Agreement will provide that, notwithstanding any of the provisions described above, if prior to the commencement of an Insolvency or Liquidation Proceeding, after a period (the “*ABL Collateral Standstill Period*”) of 180 consecutive days has elapsed from the date of delivery of written notice to the Authorized ABL Collateral Agent stating that the existence of an Event of Default as defined under the debt documents of any Non-Authorized ABL Class of Obligations has occurred and is continuing thereunder, and as a result of such Event of Default the principal and interest under such other Non-Authorized ABL Class of Obligations has become due and payable, then, upon notice to the Authorized ABL Collateral Agent indicating that applicable Non-Authorized ABL Collateral Agent intends to exercise remedies and enforce against the ABL Facility Collateral, then such Non-Authorized ABL Collateral Agent may exercise any rights or remedies (including setoff) with respect to any ABL Facility Collateral (including, without limitation, the enforcement of or execution on any judgment Lien) or institute any action or proceeding with respect to such rights or remedies only so long as the Authorized ABL Collateral Agent or the holders of the Authorized ABL Class of Obligations shall not have commenced and be diligently pursuing (within such 180 consecutive day period) the exercise of any of their rights or remedies with respect to the ABL Facility Collateral; *provided* that, if the Authorized Collateral Agent shall have provided notice as set forth above and shall have commenced and be diligently pursuing (within such 180 consecutive day period) the exercise of any of their rights or remedies with respect to the ABL Facility Collateral, then the Plan Roll-Up Notes Trustee shall be prohibited from exercising remedies against ABL Facility Collateral. In addition, the Junior Lien Intercreditor Agreement will provide that, notwithstanding any of the provisions described above, if prior to the commencement of an Insolvency or Liquidation Proceeding, after a period (the “*Notes Collateral Standstill Period*”) of 180 consecutive days has elapsed from the date of delivery of written notice to the Authorized Notes Collateral Agent stating that the existence of an Event of Default as defined under the debt documents of any Non-Authorized Notes Class of Obligations has occurred and is continuing thereunder, and as a result of such Event of Default the principal and interest under such Non-Authorized Notes Class of Obligations has become due and payable, then, upon notice to the Authorized Notes Collateral Agent indicating that applicable Non-Authorized Notes Collateral Agent intends to exercise remedies and enforce against the Notes Collateral, then such Non-Authorized Notes Collateral Agent may exercise any rights or remedies (including setoff) with respect to any Notes Collateral (including, without limitation, the enforcement of or execution on any judgment Lien) or institute any action or proceeding with respect to such rights or remedies only so long as the Authorized Notes Collateral Agent or the holders of the Authorized Notes Class of Obligations shall not have commenced and be diligently pursuing (within such 180 consecutive day period) the exercise of any of their rights or remedies with respect to the Notes Collateral; *provided* that, if the ABL Collateral Agent shall have provided notice as set forth above and shall have commenced and be diligently pursuing (within such 180 consecutive day period) the exercise of any of its rights or remedies with respect to the Notes Collateral, then the Plan Roll-Up Notes Trustee shall be prohibited from exercising remedies against Notes Collateral.

### ***Third Lien Intercreditor Agreement***

The Collateral Agent and the Third Lien Notes Collateral Agent will enter into a Third Lien Intercreditor Agreement (as amended, supplemented, modified, extended, restructured, renewed, restated or replaced in whole or in part from time to time, the “*Third Lien Intercreditor Agreement*”) with respect to the Common Collateral, which may be amended from time to time without the consent of the holders of the Notes to add other parties holding Third Priority Lien Obligations permitted to be Incurred under the Indenture, the Third Lien Indenture and the Third Lien Intercreditor Agreement.

The Third Lien Intercreditor Agreement will provide that, notwithstanding the date, time, method, manner or order of grant, attachment or perfection of any liens on any Third Lien Common Collateral in which one or more collateral agents for any Series of Third Priority Lien Obligations have perfected security interests, the security interests of the Collateral Agent, the Third Lien Notes Collateral Agent and each Additional Third Lien Collateral Agent in such Third Lien Common Collateral will rank equal in priority. Under the Third Lien Intercreditor Agreement, as described below, the “Authorized Collateral Agent” will have the right to exercise remedies and take enforcement actions with respect to the Third Lien Common Collateral, and the Authorized Representatives of



other Series of Third Priority Lien Obligations will have no right to take actions with respect to the Third Lien Common Collateral (subject to the right of any such Authorized Representative of such other Series of Third Priority Lien Obligations to take limited protective measures with respect to the liens securing such Third Priority Lien Obligations and to take certain actions that would be permitted to be taken by unsecured creditors). The Authorized Collateral Agent will initially be the Third Lien Notes Collateral Agent. The Collateral Agent, as Authorized Representative in respect of the Notes, will initially have no rights to exercise remedies or take enforcement actions under the Third Lien Intercreditor Agreement (other than as described in the immediately preceding sentence).

The Third Lien Notes Collateral Agent will remain the Authorized Collateral Agent until the New Third Lien Notes are paid in full and cancelled or are defeased in accordance with their terms (the “*Applicable Authorized Agent Date*”). After the Applicable Authorized Agent Date, the Authorized Collateral Agent will be the Authorized Representative of the Series constituting the largest outstanding principal amount of any then outstanding Series of Third Priority Lien Obligations.

The Authorized Collateral Agent will have the sole right to act or refrain from acting with respect to the Third Lien Common Collateral. No other collateral agent with respect to Third Priority Lien Obligations or Third Lien Non-Controlling Secured Party may exercise remedies or take enforcement actions with respect to the Third Lien Common Collateral and no Authorized Representative of any Third Lien Non-Controlling Secured Party or other Third Lien Secured Party (other than the Authorized Collateral Agent) will commence any judicial or non-judicial foreclosure proceedings with respect to, seek to have a trustee, receiver, liquidator or similar official appointed for or over, attempt any action to take possession of, exercise any right, remedy or power with respect to, or otherwise take any action to enforce its interests in or realize upon, or take any other action available to it in respect of, the Third Lien Common Collateral.

Notwithstanding the equal priority of the liens securing each Series of Third Priority Lien Obligations, the Authorized Collateral Agent may deal with the Third Lien Common Collateral as if the Authorized Collateral Agent had a senior lien on such Third Lien Common Collateral. No other Authorized Representative or Third Lien Non-Controlling Secured Party may contest, protest or object to any foreclosure proceeding or action brought by the Authorized Collateral Agent or Third Lien Controlling Secured Party. Each of the Third Lien Secured Parties also will agree that it will not contest or support any other Person in contesting, in any proceeding (including any insolvency or liquidation proceeding), the perfection, priority, validity or enforceability of a Lien held by or on behalf of any of the Third Lien Secured Parties in all or any part of the Third Lien Common Collateral, or the provisions of the Third Lien Intercreditor Agreement.

In addition, the Third Lien Intercreditor Agreement will provide that neither the Company, the Issuer nor any Pledgor shall, or permit any Subsidiary to, grant or permit or suffer to exist any additional liens on any asset or property to secure any Series of Third Priority Lien Obligations unless it has granted a lien on such asset or property to secure each other Series of Third Priority Lien Obligations; *provided* that a lien on such asset or property need not be granted to secure the Notes to the extent such a lien would be prohibited by the 3-16 Exemption.

With respect to any Third Lien Common Collateral in which a lien can be perfected by the possession or control of such Third Lien Common Collateral or of any deposit, securities or other account in which such Third Lien Common Collateral is held, then the Authorized Collateral Agent shall also hold or control such Third Lien Common Collateral as gratuitous bailee and sub-agent for each other collateral agent in respect of Third Priority Lien Obligations. Subject to the rights of the Authorized Collateral Agent and the other terms of the Third Lien Intercreditor Agreement, any such collateral agent that holds or controls Third Lien Common Collateral as gratuitous bailee and sub-agent shall be entitled to deal with the applicable pledged or controlled Third Lien Common Collateral as if the liens thereon of the collateral agent or Third Lien Secured Parties or Series of Third Priority Lien Obligations did not exist; *provided* that any proceeds arising from such pledged or controlled Third Lien Common Collateral shall be subject to application in accordance with the terms of the Third Lien Intercreditor Agreement.

If an event of default has occurred and is continuing under the documents governing any of the Third Priority Lien Obligations and the Authorized Collateral Agent is taking action to enforce rights in respect of any Third Lien Common Collateral, or any distribution is made with respect to any Third Lien Common Collateral in any bankruptcy case of the Issuer, the Company or any Pledgor, the proceeds of any sale, collection or other liquidation of any such Third Lien Common Collateral by the Authorized Collateral Agent or any Third Lien Secured Party (or received pursuant to any other intercreditor agreement), as applicable, and proceeds of any such distribution (subject, in the case of any such distribution, to the paragraph immediately following) to which the Third Priority Lien Obligations are entitled under any other intercreditor agreement shall be applied among the Third Priority Lien Obligations to the payment in full of the Third Priority Lien Obligations on a ratable basis, after payment of all amounts owing to the Authorized Collateral Agent and the Collateral Agent, Third Lien Notes Collateral Agent, Escrow Agent, Paying Agent and Trustee.

Notwithstanding the foregoing, with respect to any Third Lien Common Collateral for which a third party (other than a Third Lien Secured Party) has a Lien or security interest that is junior in priority to the security interest of any Series of Third Priority Lien Obligations but senior (as determined by appropriate legal proceedings in the case of any dispute) to the security interest of any other Series of Third Priority Lien Obligations (such third party, an “*Third Lien Intervening Creditor*”), the value of any Third Lien Common Collateral or proceeds which are allocated to such Third Lien Intervening Creditor shall be deducted on a ratable basis solely

from the Third Lien Common Collateral or proceeds to be distributed in respect of the Series of Third Priority Lien Obligations with respect to which such impairment exists.

None of the Third Lien Secured Parties may institute any suit or assert in any suit, bankruptcy, insolvency or other proceeding any claim against the Authorized Collateral Agent and the Collateral Agent, the Escrow Agent, the Third Lien Notes Collateral Agent or any other Third Lien Secured Party seeking damages from or other relief by way of specific performance, instructions or otherwise with respect to any Third Lien Third Lien Common Collateral. In addition, none of the Third Lien Secured Parties may seek to have any Third Lien Common Collateral or any part thereof marshaled upon any foreclosure or other disposition of such Third Lien Common Collateral. If any Third Lien Secured Party obtains possession of any Third Lien Common Collateral or realizes any proceeds or payment in respect thereof, at any time prior to the discharge of each Series of the Third Priority Lien Obligations, then it must hold such Third Lien Common Collateral, proceeds or payment in trust for the other Third Lien Secured Parties and promptly transfer such Third Lien Common Collateral, proceeds or payment to the Authorized Collateral Agent to be distributed in accordance with the Third Lien Intercreditor Agreement.

If the Issuer, the Company or any Pledgor becomes subject to any bankruptcy case, the Third Lien Intercreditor Agreement will provide that (1) if the Issuer, the Company or any Pledgor shall, as debtor(s)-in-possession, move for approval of financing (the “*DIP Financing*”) to be provided by one or more lenders (the “*DIP Lenders*”) under Section 364 of the Bankruptcy Code or the use of cash collateral under Section 363 of the Bankruptcy Code, each Third Lien Secured Party will agree not to object to any such financing or to the Liens on the Third Lien Common Collateral securing the same (the “*DIP Financing Liens*”) or to any use of cash collateral that constitutes Third Lien Common Collateral, unless any Third Lien Controlling Secured Party, or an Authorized Representative of any Third Lien Controlling Secured Party, shall then oppose or object to such DIP Financing or such DIP Financing Liens or use of cash collateral (and (i) to the extent that such DIP Financing Liens are senior to the Liens on any such Third Lien Common Collateral for the benefit of the Third Lien Controlling Secured Parties, each Third Lien Non-Controlling Secured Party will subordinate its Liens with respect to such Third Lien Common Collateral on the same terms as the Liens of the Third Lien Controlling Secured Parties (other than any Liens of any Third Lien Secured Parties constituting DIP Financing Liens) are subordinated thereto, and (ii) to the extent that such DIP Financing Liens rank *pari passu* with the Liens on any such Third Lien Common Collateral granted to secure the Third Priority Lien Obligations of the Third Lien Controlling Secured Parties, each Third Lien Non-Controlling Secured Party will confirm the priorities with respect to such Third Lien Common Collateral as set forth in the Third Lien Intercreditor Agreement), in each case so long as:

(A) the Third Lien Secured Parties of each Series retain the benefit of their Liens on all such Third Lien Common Collateral pledged to the DIP Lenders, including proceeds thereof arising after the commencement of such proceeding, with the same priority vis-à-vis all the other Third Lien Secured Parties (other than any Liens of the Third Lien Secured Parties constituting DIP Financing Liens) as existed prior to the commencement of the bankruptcy case,

(B) the Third Lien Secured Parties of each Series are granted Liens on any additional collateral pledged to any Third Lien Secured Parties as adequate protection or otherwise in connection with such DIP Financing or use of cash collateral, with the same priority vis-à-vis the Third Lien Secured Parties as set forth in the Third Lien Intercreditor Agreement,

(C) if any amount of such DIP Financing or cash collateral is applied to repay any of the Third Priority Lien Obligations, such amount is applied pursuant to the Third Lien Intercreditor Agreement, and

(D) if any Third Lien Secured Parties are granted adequate protection, including in the form of periodic payments, in connection with such DIP Financing or use of cash collateral, the proceeds of such adequate protection is applied pursuant to the Third Lien Intercreditor Agreement;

*provided* that the Third Lien Secured Parties of each Series shall have a right to object to the grant of a Lien to secure the DIP Financing over any Collateral subject to Liens in favor of the Third Lien Secured Parties of such Series or its representative that shall not constitute Third Lien Common Collateral; and *provided further* that the Third Lien Secured Parties receiving adequate protection shall not object to any other Third Lien Secured Party receiving adequate protection comparable to any adequate protection granted to such Third Lien Secured Parties in connection with a DIP Financing or use of cash collateral.

The Third Lien Secured Parties will acknowledge that the Third Priority Lien Obligations of any Series may, subject to the limitations set forth in the Third Lien Intercreditor Agreement and the other Third Lien Documents, be increased, extended, renewed, replaced, restated, supplemented, restructured, repaid, refunded, refinanced or otherwise amended or modified from time to time, all without affecting the priorities set forth in the Third Lien Intercreditor Agreement defining the relative rights of the Third Lien Secured Parties.

## Release of Collateral

Subject to the Junior Lien Intercreditor Agreement, Liens on Collateral securing the Notes will be automatically and unconditionally released:

(1) as to any property or asset (including Capital Stock of a Subsidiary of the Company), to enable the Company, the Issuer and the Pledgors to consummate the disposition of such property or asset to the extent not prohibited by the covenant described under “—Certain Covenants—Limitation on Sale/Leaseback Transactions”;

(2) upon the release of all Liens on such property or assets securing First and Second Priority Lien Obligations (including all commitments and letters of credit thereunder);

(3) in respect of the property and assets of a Pledgor, upon the designation of such Pledgor to be an Unrestricted Subsidiary in accordance with the definition of “Unrestricted Subsidiary”;

(4) in respect of the property and assets of a Guarantor upon release of the Guarantee with respect to the Notes of such Guarantor;

(5) in the case of the property and assets of a specific Pledgor, upon such Pledgor making a Transfer of such assets to any Restricted Subsidiary of the Issuer that is not a Pledgor; provided that (i) such Transfer is not subject to the covenant described under “—Merger, Amalgamation, Consolidation or Sale of All or Substantially All Assets” and (ii) the aggregate net book value of the assets of Restricted Subsidiaries that are at any time Notes Collateral (as defined in the First Lien Security Documents) (excluding cash proceeds of accounts receivable, inventory and related assets) that are so transferred pursuant to this clause (5) subsequent to the Issue Date shall not exceed 5% of the Consolidated Net Tangible Assets of the Issuer and its Restricted Subsidiaries per year and shall not be in an amount that will result in an Excluded Subsidiary ceasing to qualify as an Excluded Subsidiary in accordance with the definition thereof; *provided, further*, that Liens on all property and assets of any Subsidiary of Lyondell Europe Holdings, Inc., a Delaware corporation, will be automatically and unconditionally released upon any transfer of such Subsidiary;

(6) as described under “—Amendments and Waivers” below; or

(7) as to the pledge of Capital Stock of first-tier Foreign Subsidiaries, in connection with a reorganization, change or modification of the direct or indirect ownership of Foreign Subsidiaries by the Company, the Issuer or a Pledgor, as applicable, in compliance with the First Lien Indenture, a release may be obtained as to such Capital Stock in connection with the substitution of pledge of 65% of the voting Capital Stock and 100% of the non-voting Capital Stock of any one or more new or replacement first-tier Foreign Subsidiaries pursuant to valid Security Documents.

Notwithstanding the foregoing clause (2), if an Event of Default exists on the date of Discharge of First and Second Priority Lien Obligations, the Junior Priority Liens on the Collateral securing the Plan Roll-Up Notes will not be released, except to the extent the Collateral or any portion thereof was disposed of in order to repay the First and Second Priority Lien Obligations secured by the Collateral, and thereafter the Authorized Collateral Agent will have the right to direct the agent to foreclose upon the Collateral (but in such event, the Liens on the Collateral securing the Plan Roll-Up Notes will be released when such Event of Default and all other Events of Default cease to exist).

The security interests in all Collateral securing the Notes also will be released upon (i) payment in full of the principal of, together with accrued and unpaid interest and additional interest, if any, on, the Notes and all other Obligations under the First Lien Indenture and the Security Documents that are due and payable at or prior to the time such principal, together with accrued and unpaid interest (including additional interest, if any), are paid (including pursuant to a satisfaction and discharge of the First Lien Indenture as described under “—Satisfaction and Discharge”) or (ii) a legal defeasance or covenant defeasance under the First Lien Indenture as described under “—Defeasance.”

Any certificate or opinion required by Section 314(d) of the TIA may be made by an Officer of the Issuer, except in cases where Section 314(d) requires that such certificate or opinion be made by an independent engineer, appraiser or other expert.

Notwithstanding anything to the contrary herein, the Issuer and its Subsidiaries will not be required to comply with all or any portion of Section 314(d) of the TIA if they determine, in good faith based on advice of counsel, that under the terms of that section and/or any interpretation or guidance as to the meaning thereof of the SEC and its staff, including “no action” letters or exemptive orders, all or any portion of Section 314(d) of the TIA is inapplicable to the released Collateral.

Without limiting the generality of the foregoing, certain no action letters issued by the SEC have permitted an indenture qualified under the TIA to contain provisions permitting the release of collateral from Liens under such indenture in the ordinary course of the issuer’s business without requiring the issuer to provide certificates and other documents under Section 314(d) of the TIA. The Issuer, the Company and the Pledgors may, subject to the provisions of the Indenture, among other things, without any

release or consent by the Trustee or the Collateral Agent, conduct ordinary course activities with respect to the Collateral, including, without limitation:

selling or otherwise disposing of, in any transaction or series of related transactions, any property subject to the Lien of the Security Documents that has become worn out, defective, obsolete or not used or useful in the business;

abandoning, terminating, canceling, releasing or making alterations in or substitutions of any leases or contracts subject to the Lien of the Indenture or any of the Security Documents;

surrendering or modifying any franchise, license or permit subject to the Lien of the Security Documents that it may own or under which it may be operating;

altering, repairing, replacing, changing the location or position of and adding to its structures, machinery, systems, equipment, fixtures and appurtenances;

granting a license of any intellectual property;

selling, transferring or otherwise disposing of inventory or accounts receivable in the ordinary course of business;

making cash payments (including for the repayment of Indebtedness or interest) from cash that is at any time part of the Collateral in the ordinary course of business that are not otherwise prohibited by the Indenture and the Security Documents; and

abandoning any intellectual property that is no longer used or useful in the business of the Company or its Subsidiaries.

### **Certain Covenants**

Set forth below are summaries of certain covenants that will be contained in the Indenture, which (in the absence of a Covenant Suspension Event (as defined below)) will bind the Company and its Restricted Subsidiaries on and after the Issue Date. If on any date following the Issue Date, (i) the Notes have Investment Grade Ratings from two Rating Agencies and (ii) no Default has occurred and is continuing under the Indenture then, beginning on that day and continuing until the Reversion Date (as defined below) (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a “*Covenant Suspension Event*”), the covenants specifically listed under the following captions will not be applicable to the Notes (collectively, the “*Suspended Covenants*”):

- (1) “—Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens”;
- (2) “—Limitation on Sale/Leaseback Transactions”;
- (3) “—Merger, Amalgamation, Consolidation or Sale of All or Substantially All Assets”; and
- (4) “—Limitation on Liens.”

At any time the Company and its Restricted Subsidiaries are not subject to the Suspended Covenants, the holders of the Notes will be entitled to substantially less, and materially limited, covenant protection.

If on any date subsequent to a Covenant Suspension Event (the “*Reversion Date*”) one or both of the Rating Agencies withdraw their Investment Grade Rating or downgrade the rating assigned to the Notes below an Investment Grade Rating, then the Company and its Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants under the Indenture with respect to future events. The period of time between the Covenant Suspension Event and the Reversion Date is referred to as the “*Suspension Period*.”

On each Reversion Date, all Indebtedness Incurred during the Suspension Period will be classified as having been Incurred or issued pursuant to the first paragraph, or one of the clauses set forth in the second paragraph, under “—Certain Covenants—Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens” below (to the extent such Indebtedness would be permitted to be Incurred or issued thereunder as of the Reversion Date and after giving effect to Indebtedness Incurred or issued prior to the Suspension Period and outstanding on the Reversion Date). As described above, however, no Default or Event of Default will be deemed to have occurred on the Reversion Date as a result of any actions taken by the Company or its Restricted Subsidiaries during the Suspension Period.

There can be no assurance that the Notes will ever achieve or maintain Investment Grade Ratings.

### ***Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens***

The Indenture will provide that the Company will not, and will not permit the Issuer and the Pledgors to, directly or indirectly, Incur any Indebtedness secured by a Specified Lien:

(1) representing First Priority Lien Obligations in excess of the First Priority Secured Indebtedness Limit, if after giving effect to such Incurrence, on a pro forma basis, the First Priority Secured Indebtedness Leverage Ratio would exceed 3.0 to 1.0; and

(2) representing Third Lien Secured Indebtedness in excess of the Third Lien Secured Indebtedness Limit, if after giving effect to such Incurrence, on a pro forma basis, the Third Lien Secured Indebtedness Leverage ratio would exceed 5.0 to 1.0.

The foregoing limitations (collectively, “*Permitted Indebtedness*”) do not apply to:

- (a) Indebtedness under Asset Backed Credit Facilities in an aggregate principal amount not to exceed the sum of 85% of the net book value of the accounts receivable of the Company and its Restricted Subsidiaries and 65% of the net book value of the inventory of the Company and its Restricted Subsidiaries (the “*Borrowing Base*”) less \$1,620 million;
- (b) Indebtedness under any Oil Indexed Credit Facility in an aggregate principal amount not to exceed \$750.0 million; provided that amounts Incurred pursuant to an Oil Index Credit Facility will be required to reduce the amount of Indebtedness Incurred under the Borrowing Base to the extent Indebtedness in such amount as would no longer be permitted to be Incurred under clause (a) above (without duplication for the requirements of clause (a) above);
- (c) Indebtedness Incurred by the Company or any of its Restricted Subsidiaries constituting reimbursement Obligations with respect to letters of credit and bank guarantees issued in the ordinary course of business, including, without limitation, letters of credit in respect of workers’ compensation claims, health, disability or other benefits to employees or former employees or their families or property, casualty or liability insurance or self insurance or similar requirements, and letters of credit in connection with the maintenance of, or pursuant to the requirements of, environmental or other permits or licenses from governmental authorities, or other Indebtedness with respect to reimbursement type obligations regarding workers’ compensation claims;
- (d) Indebtedness of the Company to a Restricted Subsidiary; provided that (except in respect of intercompany current liabilities Incurred in the ordinary course of business in connection with the cash management operations of the Company and its Subsidiaries) any such Indebtedness owed to a Restricted Subsidiary that is not the Issuer or a Guarantor is subordinated in right of payment to the Obligations of the Company under the Notes; provided further that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary or any pledge of such Indebtedness not prohibited by the covenant described under “—Certain Covenants—Limitation on Liens) shall be deemed, in each case, to be an Incurrence of such Indebtedness not permitted by this clause (d);
- (e) Indebtedness of a Restricted Subsidiary to the Company or another Restricted Subsidiary; provided that if the Issuer or a Guarantor Incurs such Indebtedness to a Restricted Subsidiary that is not the Issuer or a Guarantor (except in respect of intercompany current liabilities Incurred in the ordinary course of business in connection with the cash management operations of the Company and its Subsidiaries), such Indebtedness is subordinated in right of payment to the Obligations of the Issuer or such Guarantor, as applicable, in respect of the Notes; provided further that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary holding such Indebtedness ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary or any pledge of such Indebtedness not prohibited by the covenant described under “—Certain Covenants—Limitation on Liens) shall be deemed, in each case, to be an Incurrence of such Indebtedness not permitted by this clause (e);
- (f) Hedging Obligations that are not Incurred for speculative purposes but for the purpose of (1) fixing or hedging interest rate risk with respect to any Indebtedness that is permitted by the terms of the Indenture to be outstanding; (2) fixing or hedging currency exchange rate risk with respect to any currency exchanges; (3) fixing or hedging commodity price risk, including the price or cost of raw materials, emission rights, manufactured products or related commodities, with respect to any commodity purchases or sales; or (4) hedging the potential exposure in respect of certain executives’ and employees’ options over, or stock appreciation rights in relation to, shares of Royal Dutch Shell plc and BASF AG;

- (g) (i) obligations in respect of bankers' acceptances, tender, bid, judgment, appeal, performance or governmental contract bonds and completion guarantees, surety, standby letters of credit and warranty and contractual service obligations of a like nature, trade letters of credit and documentary letters of credit and similar bonds or guarantees provided by the Company or any Restricted Subsidiary in the ordinary course of business or (ii) Indebtedness of the Company or any Restricted Subsidiary supported by a letter of credit or bank guarantee issued pursuant to any of the Credit Facilities, in a principal amount not in excess of the stated amount of such letter of credit;
- (h) Indebtedness Incurred pursuant to a Catalyst Sale/Leaseback Transaction or Sale/Leaseback Transaction (other than a Specified Sale/Leaseback Transaction).
- (i) the Incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness or Disqualified Stock or Preferred Stock of a Restricted Subsidiary of the Company which serves to refund, refinance or defease any Indebtedness Incurred or issued as permitted pursuant to the first paragraph of this covenant and clauses (a), (b) and (h) of this paragraph and including any Indebtedness incurred to refund or refinance such Indebtedness, including any additional Indebtedness, Disqualified Stock or Preferred Stock Incurred to pay premiums (including tender premiums) and original issue discount, expenses, defeasance costs and fees in connection therewith prior to its maturity; *provided, however*, that if such Refinancing Indebtedness refinances: (a) Indebtedness junior to the Notes or the Obligations of such Restricted Subsidiary in respect of the Notes, as applicable, such Refinancing Indebtedness is junior to the Notes or such Obligations of such Restricted Subsidiary, as applicable, to at least same extent or (b) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness is Disqualified Stock or Preferred Stock, as the case may be, of the same issuer.
- (j) Indebtedness Incurred in a Qualified Receivables Financing that is without recourse to the Company or any Restricted Subsidiary (except for Standard Securitization Undertakings);
- (k) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided that such Indebtedness is extinguished within five Business Days of its Incurrence;
- (l) Indebtedness under any Treasury Services Agreement or any Structured Financing Transaction;
- (m) Indebtedness of Foreign Subsidiaries; provided, however, that the aggregate principal amount of Indebtedness Incurred under this clause (m), when aggregated with the principal amount of all other Indebtedness then outstanding and Incurred pursuant to this clause (m), does not exceed the greater of \$350.0 million and 3.50% of the Consolidated Net Tangible Assets of the Foreign Subsidiaries at any one time outstanding (it being understood that any Indebtedness Incurred pursuant to this clause (m) shall cease to be deemed Incurred or outstanding for purposes of this clause (m) but shall be deemed Incurred for the purposes of the first paragraph of this covenant from and after the first date on which such Foreign Subsidiary could have Incurred such Indebtedness under the first paragraph of this covenant without reliance upon this clause (m));
- (n) Indebtedness of the Company or any Restricted Subsidiary consisting of the financing of insurance premiums in the ordinary course of business; and
- (o) Indebtedness Incurred by Lyondell Basell Australia Pty Ltd. and its successors in an aggregate principal amount at any one time outstanding not to exceed \$80.0 million; provided that such Indebtedness is not guaranteed by the Company or any Restricted Subsidiary of the Company organized under the laws of any jurisdiction other than Australia.

For purposes of determining compliance with any U.S. Dollar-denominated restriction on the Incurrence of Indebtedness, the U.S. Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term debt, or first committed or first Incurred (whichever yields the lower U.S. Dollar-equivalent), in the case of revolving credit debt; or if any such Indebtedness is subject to a Currency Agreement with respect to the currency in which such Indebtedness is denominated covering principal, premium, if any, and interest on such Indebtedness, the amount of such Indebtedness and such interest and premium, if any, shall be determined after giving effect to all payments in respect thereof under such Currency Agreement; *provided* that, if such Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced.

Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Company and its Restricted Subsidiaries may Incur pursuant to this covenant shall not be deemed to be exceeded, with respect to any outstanding

Indebtedness, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

#### ***Limitation on Sale/Leaseback Transactions***

The Company shall not, and shall not permit any Restricted Subsidiary of the Company to, enter into any Sale/Leaseback Transaction covering property with an individual Fair Market Value of the greater of 2% of Consolidated Net Tangible Assets and \$500 million (a “Specified Sale/Leaseback Transaction”) of the Company or such Restricted Subsidiary if the Company is not permitted to incur additional First Priority Lien Obligations under clause (1) of “—Certain Covenants— Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens”.

#### ***Limitation on Liens***

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, Incur any Indebtedness secured by a Specified Lien (other than Permitted Liens) if the grant of such a Lien would cause a violation of the covenant described under “—Certain Covenants—Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens.”

#### ***Future Subsidiary Guarantors***

The Indenture will provide that, the Company will cause each (i) Domestic Subsidiary of the Company (other than the Issuer) that is wholly owned other than, at the election of the Issuer, an Excluded Subsidiary and (ii) Wholly Owned Restricted Subsidiary of the Company (other than the Issuer) that guarantees the Senior Term Loan Facility to execute and deliver to the Trustee (a) a supplemental indenture joining each such Subsidiary of the Company to the Indenture; and (b) Security Documents and intercreditor agreements providing for Third Priority Lien Obligations (other than, in the case of the ABL Facility Collateral, which shall be subject to a second priority security interest), pursuant to which such Subsidiary will guarantee payment of the Notes on the same terms and subject to the same conditions and limitations as those described under “—The Guarantees” and in the Indenture (each such guarantee of the Notes, an “Additional Guarantee”).

Notwithstanding the foregoing and the other provisions of the Indenture, any Additional Guarantee of the Notes by a Domestic Subsidiary of the Company that is Wholly Owned shall provide by its terms that it shall be automatically and unconditionally released and discharged in the circumstances described under “—The Guarantees.” Any Additional Guarantee shall be considered a “Guarantee” as described under “—The Guarantees,” and any such Domestic Subsidiary of the Company providing such Additional Guarantee shall be considered a “Guarantor” as described under “—The Guarantees.”

#### ***After-Acquired Property***

Subject to Permitted Liens and the 3-16 Exemption and the Excluded Assets limitations, the Indenture will provide that (x) if any of the Company, the Issuer or any Pledgor acquires any First Priority After-Acquired Property, the Company, the Issuer or such Pledgor shall execute and deliver such mortgages, deeds of trust, security instruments, financing statements and certificates and opinions of counsel as shall be reasonably necessary to vest in the First Lien Notes Collateral Agent a perfected first priority security interest, subject only to Permitted Liens, in such First Priority After-Acquired Property and to have such First Priority After-Acquired Property added to the Collateral, and thereupon all provisions of the Indenture relating to the Collateral shall be deemed to relate to such First Priority After-Acquired Property to the same extent and with the same force and effect, and (y) if any of the Company, the Issuer or any Pledgor acquires any Second Priority After-Acquired Property, the Company, the Issuer or such Pledgor shall execute and deliver such mortgages, deeds of trust, security instruments, financing statements and certificates and opinions of counsel as shall be reasonably necessary to vest in the ABL Collateral Agent a perfected second priority security interest, subject only to Permitted Liens, in such Second Priority After-Acquired Property and to have such Second Priority After-Acquired Property added to the Collateral, and thereupon all provisions of the Indenture relating to the Collateral shall be deemed to relate to such Second Priority After-Acquired Property to the same extent and with the same force and effect. In addition, if granting a security interest in such property requires the consent of a third party, the Company will use commercially reasonable efforts to obtain such consent (i) with respect to the first priority security interest for the benefit of the First Lien Notes Collateral Agent on behalf of the holders of the First Lien Notes and for the benefit of the Senior Term Loan Collateral Agent on behalf of the lenders under the Senior Term Loan Facility, (ii) with respect to the second priority security interest for the benefit of the ABL Collateral Agents on behalf of lenders under ABL Facility and (iii) with respect to the third priority security interest for the benefit of the Trustee on behalf of the holders of the Notes and for the benefit of the Third Lien Trustee on behalf of the holders of the New Third Lien Notes. If such third party does not consent to the granting of the third priority security interest after the use of such commercially reasonable efforts, the applicable entity will not be required to provide such security interest. The Issuer, the Company and the Pledgors will also ensure that third priority security interests are maintained as security for the Plan Roll-Up Notes in any property or assets pledged to secure the ABL Facility.

## **Merger, Amalgamation, Consolidation or Sale of All or Substantially All Assets**

The Indenture will provide that the Company may not, directly or indirectly, consolidate, amalgamate or merge with or into or wind up or convert into (whether or not the Company is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions, to any Person unless:

(1) the Company is the surviving Person or the Person formed by or surviving any such consolidation, amalgamation, merger, winding up or conversion (if other than the Company) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a corporation, partnership or limited liability company organized or existing under the laws of the United States, any state thereof, the District of Columbia, Canada or any province thereof or any state which was a member of the European Union on December 31, 2003 (other than Greece) (the Company or such Person, as the case may be, being herein called the “*Successor Company*”); *provided that*, in the case where the surviving Person is not a corporation, a co-obligor of the Notes is a corporation;

(2) the Successor Company (if other than the Company) expressly assumes all the Obligations of the Company under the Indenture and the Notes pursuant to supplemental indentures or other documents or instruments in form required by the Indenture and in compliance with the intercreditor agreements; and

(3) the Company shall have delivered to the Trustee an Officer’s Certificate and an Opinion of Counsel, each stating that such consolidation, merger, amalgamation or transfer and such supplemental indentures (if any) comply with the Indenture.

The Successor Company (if other than the Company) will succeed to, and be substituted for, the Company under the Indenture and the Notes, and in such event the Company will automatically be released and discharged from its Obligations under the Indenture and the Notes. Notwithstanding the first sentence of this covenant, the Company may (A) merge with an Affiliate that has no material assets or liabilities and that is incorporated or organized solely for the purpose of reincorporating or reorganizing the Issuer in any state of the U.S., the District of Columbia, Canada or any province thereof or any state which was a member state of the European Union on December 31, 2003 (other than Greece) and (B) may otherwise convert its legal form under the laws of its jurisdiction of organization.

The Indenture will further provide that the Issuer may not, directly or indirectly, consolidate, amalgamate or merge with or into or wind up or convert into (whether or not the Issuer is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions, to any Person unless:

(1) the Issuer is the surviving Person or the Person formed by or surviving any such consolidation, amalgamation, merger, winding up or conversion (if other than the Issuer) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a corporation, partnership or limited liability company organized or existing under the laws of the United States, any state thereof or the District of Columbia (the Issuer or such Person, as the case may be, being herein called the “*Successor Issuer*”); *provided that*, in the case where the surviving Person is not a corporation, a co-obligor of the Notes is a corporation;

(2) the Successor Issuer (if other than the Issuer) expressly assumes all the Obligations of the Issuer under the Indenture and the Notes pursuant to supplemental indentures or other documents or instruments in form required by the Indenture and in compliance with the intercreditor agreements; and

(3) the Issuer shall have delivered to the Trustee an Officer’s Certificate and an Opinion of Counsel, each stating that such consolidation, merger, amalgamation or transfer and such supplemental indentures (if any) comply with the Indenture.

The Successor Issuer (if other than the Issuer) will succeed to, and be substituted for, the Issuer under the Indenture and the Notes, and in such event the Issuer will automatically be released and discharged from its Obligations under the Indenture and the Notes. Notwithstanding the first sentence of this covenant, the Issuer may (A) merge with an Affiliate that has no material assets or liabilities and that is incorporated or organized solely for the purpose of reincorporating or reorganizing the Issuer, as the case may be, in any state of the U.S. or the District of Columbia and (B) may otherwise convert its legal form under the laws of its jurisdiction of organization so long as there remains a corporate co-obligor. This covenant described under “—Merger, Amalgamation, Consolidation or Sale of All or Substantially All Assets” will not apply to a sale, assignment, transfer, conveyance or other disposition of assets between or among the Company and its Restricted Subsidiaries.

The Indenture will further provide that, subject to certain limitations in the Indenture governing release of assets and property securing the Notes upon the sale or disposition of a Restricted Subsidiary of the Company that is a Pledgor, no Pledgor will, and the Company will not permit any Pledgor to, consolidate, amalgamate or merge with or into or wind up into (whether or not such Pledgor is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions to, any Person unless:

(1) such Pledgor is the surviving Person or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than such Pledgor) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have



been made is a corporation, partnership or limited liability company organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (such Pledgor or such Person, as the case may be, being herein called the “*Successor Pledgor*”) and the Successor Pledgor (if other than such Pledgor) expressly assumes all the Obligations of such Pledgor under the Indenture and the Security Documents pursuant to documents or instruments in form required by the Indenture and in compliance with the intercreditor agreements; and

(2) the Successor Pledgor (if other than such Pledgor) shall have delivered or caused to be delivered to the Trustee an Officer’s Certificate and an Opinion of Counsel, each stating that such consolidation, amalgamation, merger or transfer and such supplemental indenture (if any) comply with the Indenture.

Subject to certain limitations described in the Indenture, the Successor Pledgor (if other than such Pledgor) will succeed to, and be substituted for, such Pledgor under the Indenture and such Pledgor’s Obligations in respect of the Notes, and such Pledgor will automatically be released and discharged from its Obligations under the Indenture and such Pledgor’s Obligations in respect of the Notes. Notwithstanding the foregoing, (1) a Pledgor may merge, amalgamate or consolidate with an Affiliate incorporated solely for the purpose of reincorporating or reorganizing such Pledgor in another state of the United States, the District of Columbia or any territory of the United States so long as the amount of Indebtedness of the Pledgor is not increased thereby and (2) a Pledgor may merge, amalgamate or consolidate with another Pledgor or the Company or may convert its legal form under the laws of reorganization of its jurisdiction.

In addition, notwithstanding the foregoing, any Pledgor may consolidate, amalgamate or merge with or into or wind up into, or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets (collectively, a “*Transfer*”) to the Company or any Pledgor.

## Defaults

An Event of Default will be defined in the Indenture as:

- (1) a default in any payment of interest (including any additional interest) on any Note when due, continued for 60 days,
- (2) a default in the payment of principal or premium, if any, of any Note when due at its Stated Maturity, upon optional redemption, upon required repurchase, upon declaration or otherwise,
- (3) the failure by the Company or any Restricted Subsidiary to comply for 90 days after notice with its other agreements contained in the Notes or the Indenture,
- (4) the failure by the Company or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) to pay any Indebtedness (other than Indebtedness owing to the Company or a Restricted Subsidiary) within any applicable grace period after final maturity or the acceleration of any such Indebtedness by the holders thereof because of a default, in each case, if the total amount of such Indebtedness unpaid or accelerated exceeds \$150.0 million or its foreign currency equivalent (the “*cross-acceleration provision*”),
- (5) certain events of bankruptcy, insolvency or reorganization of the Company, the Issuer or a Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) (the “*bankruptcy provisions*”),
- (6) failure by the Company or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) to pay final judgments aggregating in excess of \$150.0 million or its foreign currency equivalent (net of any amounts which are covered by enforceable insurance policies issued by solvent carriers), which judgments are not discharged, waived or stayed for a period of 90 days (the “*judgment default provision*”),
- (7) the Guarantee of the Company or a Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) ceases to be in full force and effect (except as contemplated by the terms thereof) or the Company denies or disaffirms its Obligations under the Indenture and such Default continues for 60 days,
- (8) unless all of the Notes Collateral has been released from the third priority Liens in accordance with the provisions of the Security Documents, the first priority Liens on all or substantially all of the Notes Collateral cease to be valid or enforceable and such Default continues for 60 days, or the Company, the Issuer or any Pledgor shall assert, in any pleading in any court of competent jurisdiction, that any such security interest is invalid or unenforceable and, in the case of any such Person that is a Subsidiary of the Company, the Company fails to cause such Subsidiary to rescind such assertions within 60 days after the Company has actual knowledge of such assertions, or
- (9) the failure by the Company, the Issuer or any Pledgor to comply for 90 days after notice with its other agreements contained in the Security Documents except for a failure that would not be material to the holders of the Notes and would not materially affect the value of the Collateral taken as a whole (together with the defaults described in clause (8) the “*security default provisions*”).

The foregoing constitutes Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

However, a default under clause (3) or (9) will not constitute an Event of Default until the Trustee or the holders of 45% in aggregate principal amount of outstanding Notes notify the Issuer of the default and the Issuer does not cure such default within the time specified in clause (3) or (9) hereof after receipt of such notice.

If an Event of Default (other than a Default relating to certain events of bankruptcy, insolvency or reorganization of the Company or the Issuer) occurs and is continuing, the Trustee or the holders of at least 45% in aggregate principal amount of outstanding Notes by notice to the Issuer may declare the principal of, premium, if any, and accrued but unpaid interest on all the Notes to be due and payable. If an Event of Default relating to certain events of bankruptcy, insolvency or reorganization of the Company or the Issuer occurs, the principal of, premium, if any, and interest on all the Notes will become immediately due and payable without any declaration or other act on the part of the Trustee or any holders. Under certain circumstances, the holders of a majority in aggregate principal amount of outstanding Notes may rescind any such acceleration with respect to the Notes and its consequences.

In the event of any Event of Default specified in clause (4) of the first paragraph above, such Event of Default and all consequences thereof (excluding, however, any resulting payment default) will be annulled, waived and rescinded, automatically and without any action by the Trustee or the holders of the Notes, if within 30 days after such Event of Default arose the Issuer delivers an Officer's Certificate to the Trustee stating that (x) the Indebtedness or guarantee that is the basis for such Event of Default has been discharged or (y) the holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default or (z) the default that is the basis for such Event of Default has been cured, it being understood that in no event shall an acceleration of the principal amount of the Notes as described above be annulled, waived or rescinded upon the happening of any such events.

Subject to the provisions of the Indenture relating to the duties of the Trustee, in case an Event of Default occurs and is continuing, the Trustee will be under no obligation to exercise any of the rights or powers under the Indenture at the request or direction of any of the holders unless such holders have offered to the Trustee reasonable indemnity and security against any loss, liability or expense acceptable to the Trustee in its sole discretion. Except to enforce the right to receive payment of principal, premium (if any) or interest when due, no holder may pursue any remedy with respect to the Indenture or the Notes unless:

(10) such holder has previously given the Trustee notice that an Event of Default is continuing,

(11) holders of at least 45% in aggregate principal amount of the outstanding Notes have requested the Trustee to pursue the remedy,

(12) such holders have offered the Trustee security and reasonable indemnity against any loss, liability or expense acceptable to the Trustee in its sole discretion,

(13) the Trustee has not complied with such request within 90 days after the receipt of the request and the offer of security or indemnity, and

(14) the holders of a majority in aggregate principal amount of the outstanding Notes have not given the Trustee a direction inconsistent with such request within such 90-day period.

Subject to certain restrictions, the holders of a majority in principal amount of outstanding Notes are given the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or the Indenture or that the Trustee determines is unduly prejudicial to the rights of any other holder or that would involve the Trustee in personal liability. Prior to taking any action under the Indenture, the Trustee will be entitled to reasonable indemnification and security satisfactory to it in its reasonable discretion against all losses and expenses caused by taking or not taking such action.

The Issuer is required to deliver to the Trustee, annually, a certificate indicating whether the signers thereof know of any Default that occurred during the previous year. The Issuer also is required to deliver to the Trustee, within 30 days after an occurrence thereof, written notice of any event which would constitute certain Defaults, their status and what action the Issuer is taking or proposes to take in respect thereof.

#### **Amendments and Waivers**

Subject to certain exceptions, the Indenture and Security Documents may be amended with the consent of the holders of a majority in aggregate principal amount of the Notes then outstanding and any past default or compliance with any provisions may be waived with the consent of the holders of a majority in principal amount of the Notes then outstanding. However, without the consent of each holder of an outstanding Note affected, no amendment may, among other things:

- (1) reduce the amount of Notes whose holders must consent to an amendment,
- (2) reduce the rate of or extend the time for payment of interest on any Note,
- (3) reduce the principal of or change the Stated Maturity of any Note,
- (4) reduce the premium payable upon the redemption of any Note or change the time at which any Note may be redeemed as described under “—Redemption—Optional Redemption” above,
- (5) make any Note payable in money other than that stated in such Note,
- (6) expressly subordinate the Notes to any other Indebtedness of the Company, the Issuer or any Pledgor,
- (7) impair the right of any holder to receive payment of principal of, premium, if any, and interest on such holder’s Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such holder’s Notes,
- (8) make any change in the amendment provisions which require each holder’s consent or in the waiver provisions,
- (9) make any change in the provisions in the Junior Lien Intercreditor Agreement or the Indenture dealing with the application of proceeds of Collateral that would adversely affect the holders of the Notes, or
- (10) except as expressly provided by the Indenture, modify or release the Guarantee of any Significant Subsidiary in any manner adverse to the holders of the Notes.

Without the consent of the holders of at least 50% in aggregate principal amount of the Notes then outstanding, no amendment or waiver may release all or substantially all of the Collateral from the Lien of the Indenture and the Security Documents with respect to the Notes.

Without the consent of any holder, the Issuer, the Guarantors and Trustee may amend the Indenture or the Intercreditor Agreements to cure any ambiguity, omission, mistake, defect or inconsistency, to provide for the assumption by a successor Issuer of the Obligations of the Issuer under the Indenture and the Notes, to provide for the assumption by a successor Company of the Obligations of the Company under the Indenture and the Notes, to provide for the assumption by a successor Pledgor of the Obligations of a Pledgor under the Indenture and the Security Documents, to provide for uncertificated Notes in addition to or in place of certificated Notes (*provided* that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code, or in a manner such that the uncertificated Notes are described in Section 163(f)(2)(B) of the Code), to add a Pledgor with respect to the Notes, to secure the Notes, to release Collateral in compliance with the Indenture or the Junior Lien Intercreditor Agreement, to add additional secured creditors holding Other First-Lien Obligations, other Third Priority Lien Obligations or any other secured Indebtedness permitted to be Incurred, so long as such Obligations are in compliance with the Indenture or the Security Documents, to add to the covenants of the Company or the Restricted Subsidiaries for the benefit of the holders or to surrender any right or power conferred upon the Company and the Restricted Subsidiaries, to make any change that does not adversely affect the rights of any holder, to conform the text of the Indenture, the Notes, the Security Documents or the Junior Lien Intercreditor Agreement to any provision of this “Description of 2014 Notes” to the extent that such provision in this “Description of 2014 Notes” was intended to be a verbatim recitation of a provision of the Indenture, the Notes, the Security Documents or the Junior Lien Intercreditor Agreement, to comply with any requirement of the SEC in connection with the qualification of the Indenture under the TIA to effect any provision of the Indenture or to make certain changes to the Indenture to provide for the issuance of additional Notes.

The consent of the noteholders will not be necessary under the Indenture to approve the particular form of any proposed amendment. It is sufficient if such consent approves the substance of the proposed amendment.

After an amendment under the Indenture becomes effective, the Issuer will be required to mail to the respective noteholders a notice briefly describing such amendment. However, the failure to give such notice to all noteholders entitled to receive such notice, or any defect therein, will not impair or affect the validity of the amendment.

Notes repurchased and held by the Issuer or any Restricted Subsidiary will not be deemed cancelled and will be deemed outstanding.

#### **No Personal Liability of Directors, Officers, Employees, Managers and Stockholders**

No director, officer, employee, manager, incorporator or holder of any Equity Interests in the Company, the Issuer or any direct or indirect parent corporation, as such, has any liability for any Obligations of the Issuer under the Notes, the Indenture, or for any claim based on, in respect of, or by reason of, such Obligations or their creation. Each holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

## Transfer and Exchange

A noteholder may transfer or exchange Notes in accordance with the Indenture. Upon any transfer or exchange, the registrar and the Trustee may require a noteholder, among other things, to furnish appropriate endorsements and transfer documents and the Issuer may require a noteholder to pay any taxes required by law or permitted by the Indenture. The Issuer is not required to transfer or exchange any Note selected for redemption or to transfer or exchange any Note for a period of 15 days prior to a selection of Notes to be redeemed. The Notes were issued in registered form and the registered holder of a Note is treated as the owner of such Note for all purposes.

## Satisfaction and Discharge

The Indenture will be discharged and will cease to be of further effect as to all outstanding Notes when:

(1) either (a) all the Notes theretofore authenticated and delivered (except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust) have been delivered to the Trustee for cancellation or (b) all of the Notes (i) have become due and payable, (ii) will become due and payable at their Stated Maturity within one year or (iii) if redeemable at the option of the Issuer, are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuer, and the Issuer has irrevocably deposited or caused to be deposited with the Trustee funds in an amount sufficient to pay and discharge the entire Indebtedness on the Notes not theretofore delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on the Notes to the date of deposit together with irrevocable instructions from the Issuer directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be;

(2) the Issuer has paid all other sums payable under the Indenture; and

(3) the Issuer has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel stating that all conditions precedent under the Indenture relating to the satisfaction and discharge of the Indenture have been complied with.

## Defeasance

The Issuer at any time may terminate all its Obligations under the Notes and the Indenture with respect to the holders of the Notes ("*legal defeasance*"), except for certain Obligations, including those respecting the defeasance trust and Obligations to register the transfer or exchange of the Notes, to replace mutilated, destroyed, lost or stolen Notes and to maintain a registrar and paying agent in respect of the Notes. The Issuer at any time may terminate its Obligations under the covenants described under "—Certain Covenants" for the benefit of the holders of the Notes, the operation of the cross acceleration provision, the bankruptcy provisions with respect to Significant Subsidiaries and the judgment default provision described under "—Defaults" (but only to the extent that those provisions relate to the Defaults with respect to the Notes) for the benefit of the holders of the Notes. If the Issuer exercises its legal defeasance option or its covenant defeasance option, each Guarantor will be released from all of its Obligations with respect to the Notes and the Security Documents.

The Issuer may exercise its legal defeasance option notwithstanding its prior exercise of its covenant defeasance option. If the Issuer exercises its legal defeasance option, payment of the Notes may not be accelerated because of an Event of Default with respect thereto. If the Issuer exercises its covenant defeasance option, payment of the Notes may not be accelerated because of an Event of Default specified in clauses (3), (4) and (5) (with respect only to Significant Subsidiaries), (6) or (7) under "—Defaults."

In order to exercise its defeasance option, the Issuer must irrevocably deposit in trust (the "*defeasance trust*") with the Trustee money or Government Obligations for the payment of principal, premium (if any) and interest on the Notes to redemption or maturity, as the case may be, and must comply with certain other conditions, including delivery to the Trustee of an Opinion of Counsel to the effect that holders of the Notes will not recognize income, gain or loss for Federal income tax purposes as a result of such deposit and defeasance and will be subject to Federal income tax on the same amount and in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred (and, in the case of legal defeasance only, such Opinion of Counsel must be based on a ruling of the Internal Revenue Service or change in applicable Federal income tax law). Notwithstanding the foregoing, the Opinion of Counsel required by the immediately preceding sentence with respect to a legal defeasance need not be delivered if all of the Notes not theretofore delivered to the Trustee for cancellation (x) have become due and payable or (y) will become due and payable at their Stated Maturity within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuer.

## Concerning the Trustee and Collateral Agent

[[TBD]] will be the Trustee under the Indenture. [TBD] will be the Collateral Agent under the Indenture and has been appointed by the Issuer as registrar and a Paying Agent with regard to the Notes.]

## Governing Law

The Indenture will provide that it and the Notes are governed by, and construed in accordance with, the laws of the State of New York.

## Certain Definitions

“*ABL Collateral Agent*” means the representative(s) from time to time administering the collateral on behalf of the lenders under the ABL Facility.

“*ABL Facility*” means the asset based revolving credit agreement dated as of its effective date among the Issuer Equistar Chemicals, L.P., Houston Refining L.P., LyondellBasell Acetyls LLC and each other Subsidiary of the Issuer from time to time designated as a “Borrower” thereunder, the lenders and agents party thereto and Citibank, N.A., as administrative agent, as amended, supplemented, modified, extended, restructured, renewed, restated, refinanced or replaced in whole or in part from time to time.

“*ABL Facility Collateral*” has the meaning ascribed to such term under “—Security—General.”

“*ABL Obligations*” means all Indebtedness and other Obligations under the ABL Facility.

“*Additional First Priority Lien Obligations*” means any First Priority Lien Obligations that are Incurred after the Issue Date (other than Indebtedness Incurred under the Senior Term Loan Facility) and secured by the Common Collateral on a first priority basis pursuant to the Security Documents.

“*Additional Guarantee*” has the meaning ascribed to such term under “—Certain Covenants—Future Subsidiary Guarantors.”

“*Additional Third Priority Lien Obligations*” means any Third Priority Lien Obligations that are Incurred after the Issue Date and secured on a basis equal to the Liens securing the Plan Roll-Up Notes.

“*Asset Backed Credit Facility*” means (i) the ABL Facility; (ii) any credit facility provided on the basis of the value of inventory, accounts receivable or other current assets (and related documents and intangibles) to the Company or any of its Subsidiaries or similar instrument; and (iii) any similar credit support agreements or guarantees Incurred from time to time, as amended, supplemented, modified, extended, restructured, renewed, restated, refinanced or replaced in whole or in part from time to time; *provided* that any credit facility that refinances or replaces an Asset Backed Credit Facility must comply with clause (ii) of this definition in order to be an Asset Backed Credit Facility; and *provided, further*, that, if at the time any such refinancing or replacement is necessary or advisable in the good faith judgment of the Board of Directors of the Company, and an Asset Backed Credit Facility that complies with clause (ii) of this definition is not available on terms considered commercially reasonable for facilities of this nature (as determined in the good faith judgment of the Board of Directors of the Company), then the ABL Facility may be refinanced with or replaced by any Credit Facility and such Credit Facility shall be an Asset Backed Credit Facility for purposes hereof.

“*Authorized Collateral Agent*” has the meaning ascribed to such term under “—Security—First Lien Intercreditor Agreement” in the First Lien Description of Notes.

“*Authorized Representative*” means (i) in the case of any Obligations under the Senior Term Loan Facility or the secured parties under the Senior Term Loan Facility, the Senior Term Loan Collateral Agent, (ii) in the case of the Obligations under the First Lien Notes or the holders of the First Lien Notes, the First Lien Notes Collateral Agent, (iii) in the case of the ABL Facility, the ABL Collateral Agent and (iv) in the case of any Series of Additional First Priority Lien Obligations that become subject to the First Lien Intercreditor Agreement, the Authorized Representative named for such Series in the applicable joinder agreement.

“*Bankruptcy Code*” means the United States Bankruptcy Code, 11 U.S.C. Section 101 et seq., as amended from time to time.

“*Bankruptcy Court*” means the United States Bankruptcy Court for the Southern District of New York.

“*Basell GmbH*” means Basell Germany Holdings GmbH, and any successor in interest thereto.

“*Berre Facility*” means any receivables-backed credit or factoring facility entered into by one or more Foreign Subsidiaries (other than Basell GmbH) related to receivables of the refinery located in Berre, France, and any permitted refinancings thereof.

“*Board of Directors*” means, as to any Person, the board of directors or, supervisory board of such Person, or equivalent governing body (or, if such Person is a partnership or limited liability company, the board of directors or other governing body of the general partner of such Person or manager ) or any duly authorized committee thereof.

“*Borrowing Base*” has the meaning ascribed to such term under “— Certain Covenants—Limitation on Incurrence of Indebtedness Secured by Prior or Pari Passu Debt.”

*“Capital Stock”* means:

- (a) in the case of a corporation, corporate stock or shares;
- (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (d) 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.

*“Capitalized Lease Obligation”* means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) in accordance with GAAP.

*“Cases”* means the proceedings of LyondellBasell Industries AF S.C.A. and certain of its Subsidiaries and affiliates, as debtors and debtors in possession under Chapter 11.

*“Cash Equivalents”* means:

- (a) U.S. Dollars, pounds sterling, Euros, the national currency of any member state in the European Union or, in the case of any Foreign Subsidiary that is a Restricted Subsidiary, such local currencies held by it from time to time in the ordinary course of business;
- (b) securities issued or directly and fully guaranteed or insured by the U.S. government or any country that is a member of the European Union (other than Greece or Portugal) or any agency or instrumentality thereof in each case maturing not more than two years from the date of acquisition;
- (c) certificates of deposit, time deposits and Eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances, in each case with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank or trust company having capital and surplus in excess of \$250.0 million and whose long-term debt is rated “A” or the equivalent thereof by Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency);
- (d) repurchase obligations and reverse repurchase obligations for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;
- (e) commercial paper issued by a corporation (other than an Affiliate of the Company) rated at least “A1” or the equivalent thereof by Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) and in each case maturing within one year after the date of acquisition;
- (f) readily marketable direct obligations issued by any state of the United States of America or any political subdivision thereof having one of the two highest rating categories obtainable from either Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) in each case with maturities not exceeding two years from the date of acquisition;
- (g) Indebtedness issued by Persons (other than the Sponsors or any of their Affiliates) with a rating of “A” or higher from S&P or “A-2” or higher from Moody's (or reasonably equivalent ratings of another internationally recognized ratings agency) in each case with maturities not exceeding two years from the date of acquisition;
- (h) U.S. Dollar-denominated money market funds as defined in Rule 2a-7 of the General Rules and Regulations promulgated under the Investment Company Act of 1940;
- (i) tax-exempt floating rate option tender bonds backed by letters of credit issued by a national or state bank whose long-term unsecured debt has a rating of AA or better by S&P or Aa2 or better by Moody's or the equivalent rating by any other internationally recognized rating agency; and
- (j) investment funds investing at least 95% of their assets in securities of the types described in clauses (a) through (i) above.

*“Catalyst Sale/Leaseback Transaction”* means a Sale/Leaseback Transaction that relates to a catalyst containing one or more precious metals used by the Company or any of its Restricted Subsidiaries in the ordinary course of business.

“*Chapter 11*” means Chapter 11 of the Bankruptcy Code.

“*Code*” means the Internal Revenue Code of 1986, as amended.

“*Collateral*” means all property subject or purported to be subject, from time to time, to a Lien under any Security Documents.

“*Collateral Agent*” means [ ].

“*Collateral Agreement*” has the meaning ascribed to such term under “—Security—Security Documents.”

“*Common Collateral*” means, at any time, Collateral in which the holders of two or more Series of First Priority Lien Obligations (or their respective Authorized Representatives) hold a valid and perfected security interest at such time. If more than two Series of First Priority Lien Obligations are outstanding at any time and the holders of less than all Series of First Priority Lien Obligations hold a valid and perfected security interest in any Collateral at such time then such Collateral shall constitute Common Collateral for those Series of First Priority Lien Obligations that hold a valid security interest in such Collateral at such time and shall not constitute Common Collateral for any Series which does not have a valid and perfected security interest in such Collateral at such time.

“*Company*” means LyondellBasell Industries N.V., a *naamloze vennootschap* (public limited liability corporation) formed under the laws of the Netherlands, and any successor in interest thereto.

“*Consolidated EBITDA*” means, with respect to any Person, for any period, the sum (without duplication) of:

(1) Consolidated Net Income;

(2) to the extent Consolidated Net Income has been reduced thereby;

(a) taxes of such Person and its Restricted Subsidiaries paid or accrued in accordance with GAAP for such period based on income, profits or capital, including, without limitation, state, franchise, property and similar taxes and foreign withholding taxes (including penalties and interest related to such taxes or arising from tax examinations), or such equivalent items in any foreign jurisdiction;

(b) Consolidated Interest Expense;

(c) Consolidated Non-cash Charges;

(d) the amount of net loss resulting from the payment of any premiums, fees or similar amounts that are required to be paid under the terms of the instrument(s) governing any Indebtedness upon the repayment, prepayment or other extinguishment of such Indebtedness in accordance with the terms of such Indebtedness,

(e) any expenses or charges (other than Consolidated Non-cash Charges) related to any issuance of Equity Interests, any Investment, acquisition, disposition, recapitalization or Incurrence, repayment, amendment or modification of Indebtedness permitted to be Incurred or repaid by the Indenture (including a refinancing thereof) (in each case, whether or not successful), including, without limitation, (i) such fees, expenses or charges related to the offering of the Notes and the Credit Facility Indebtedness and other Exit Financing, (ii) any amendment or other modification of the Notes or other Indebtedness, (iii) any additional interest in respect of the Notes and (iv) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Receivables Financing; and

(f) business optimization expenses and other restructuring charges, reserves or expenses (which, for the avoidance of doubt, shall include, without limitation, the effect of inventory optimization programs, facility consolidations, retention, headcount reductions, systems establishment costs, contract termination costs, future lease commitments and excess pension charges); and

(3) the amount of net cost savings projected by such Person in good faith to be realized by specified actions taken or to be taken prior to or during such period (calculated on a pro forma basis as though such cost savings had been realized on the first day of such period); *provided* that (x) such cost savings are reasonably identifiable and factually supportable and (y) such actions have been taken or are to be taken within twelve months of the date of determination to take such action and the benefit is expected to be realized within twelve months of taking such action; minus

(4) any non-cash gains increasing Consolidated Net Income of such Person for such period (excluding (i) the recognition of deferred revenue or any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced EBITDA in any prior period and any items for which cash was received in a prior period, (ii) items referenced in clause (e) of Consolidated Net Income and (iii) gains which have been offset against losses in determining Consolidated Net Income but for which the loss has not been added back as a Consolidated Non-cash Charge pursuant to the definition of Consolidated EBITDA);

all as determined on a consolidated basis for such Person and its Restricted Subsidiaries in accordance with GAAP.

Notwithstanding anything herein to the contrary, Consolidated EBITDA for the Fiscal Quarter ending (i) June 30, 2009 shall be deemed to be \$551.0 million, (ii) September 30, 2009 shall be deemed to be \$757.0 million and (iii) December 31, 2009 shall be deemed to be \$578.0 million, before giving *pro forma* effect to any transaction occurring after the Issue Date.

“Consolidated Interest Expense” means, with respect to any Person for any period, the consolidated interest expense (net of interest income for such period) of such Person and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP, to the extent such expense was deducted in computing Consolidated Net Income, including, without limitation:

- (1) amortization of original issue discount,
- (2) the interest component of Capitalized Lease Obligations paid, accrued and/or scheduled to be paid or accrued,
- (3) net payments and receipts (if any) pursuant to interest rate Hedging Obligations,
- (4) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, and
- (5) the interest portion of any deferred payment obligation,

but excluding, in each case, any amortization of fees, debt issuance costs and commissions incurred in connection with the Credit Facilities, any Receivables Financing, the issuance of the Notes, the Plan Roll-Up Notes, the Euro Securitization and any other debt issuance.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by the Issuer to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

“Consolidated Net Income” means, with respect to any Person, for any period:

- (1) the Net Income of such Person and its Restricted Subsidiaries for such period on a consolidated basis; plus
- (2) cash dividends or distributions paid to such Person or any Restricted Subsidiary of such Person by any other Person (the “Payor”) other than a Restricted Subsidiary, to the extent not otherwise included in Consolidated Net Income, which have not been derived from Indebtedness of the Payor to the extent such Indebtedness is Guaranteed by such referent Person or any Restricted Subsidiary of such referent Person;

provided that there shall be excluded therefrom, without duplication (but only to the extent included in the calculation of the foregoing):

- (a)(i) any net after-tax income or loss from operating results of discontinued operations as defined by GAAP, and
- (ii) any net after-tax gains or losses from sales of discontinued operations;

(b) any net after-tax extraordinary, nonrecurring or unusual gains or losses (less all fees and expenses relating thereto or expenses or charges, any severance expenses, relocation expenses, curtailments or modifications to pension and post-retirement employee benefit plans, any expenses related to any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternate uses and fees, expenses or charges relating to facilities closing costs, acquisition integration costs, facilities opening costs, project start-up costs, business optimization costs, signing, retention or completion bonuses, expenses or charges related to any issuance of Equity Interests, Investment, acquisition, disposition, recapitalization or issuance, repayment, refinancing, amendment or modification of Indebtedness (in each case, whether or not successful), and all costs and expenses of such Person and its Restricted Subsidiaries Incurred in connection with the Cases and the Exit Financings);

(c) the Net Income of any Payor, other than a Restricted Subsidiary of such Person or Net Income of such Payor that is accounted for by the equity method of accounting, except to the extent of cash dividends or distributions paid to such Person or to a Restricted Subsidiary of such Person by such Payor (or to the extent converted into cash);

(d)(i) any restoration to income of any contingency reserve, except to the extent that provision for such reserve was made out of Consolidated Net Income accrued at any time following the Issue Date; and (ii) any restoration to or deduction from income for changes in estimates related to the post-emergence settlement of pre-petition claims obligations in relation with Chapter 11 following the Issue Date;

(e) in the case of a successor to such Person by consolidation or merger or as a transferee of such Person’s assets, any gains or losses of the successor corporation prior to such consolidation, merger or transfer of assets;



(f) any charges or credits relating to any purchase accounting adjustments or to the adoption of fresh start accounting principles;

(g) any (i) one-time non-cash compensation charges, and (ii) non-cash costs or expenses resulting from stock option plans, employee benefit plans, compensation charges or post-employment benefit plans, or grants or awards of stock, stock appreciation or similar rights, stock options, restricted stock, Preferred Stock or other rights;

(h) Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period;

(i) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of the Company) or reserves relating thereto;

(j) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of Indebtedness, Hedging Obligations or other derivative instruments entered in relation with the Indebtedness extinguished;

(k) any gain or loss for such period from currency translation gains or losses or net gains or losses related to currency remeasurements of Indebtedness (including any net loss or gain resulting from Hedging Obligations for currency exchange risk entered in relation with Indebtedness); and

(l) any impairment charges or asset write-offs, in each case pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP.

“*Consolidated Net Tangible Assets*” means, with respect to any Person, the Total Assets of such Person and its Restricted Subsidiaries less goodwill and intangibles (other than intangibles arising from, or relating to, intellectual property, licenses or permits (including, but not limited to, emissions rights) of such Person), in each case calculated in accordance with GAAP, *provided*, that in the event that such Person or any of its Restricted Subsidiaries assumes or acquires any assets in connection with the acquisition by such Person and its Restricted Subsidiaries of another Person subsequent to the commencement of the period for which the Consolidated Net Tangible Assets is being calculated but prior to the event for which the calculation of the Consolidated Net Tangible Assets is made, then the Consolidated Net Tangible Assets shall be calculated giving *pro forma* effect to such assumption or acquisition of assets, as if the same had occurred at the beginning of the applicable period.

“*Consolidated Non-cash Charges*” means, with respect to any Person, for any period, the consolidated depreciation, amortization and other non-cash expenses of such Person and its Restricted Subsidiaries (including the amortization of prior service costs and actuarial gains and losses related to pensions and other post-employment benefits) (including any lower-of-cost-or-market adjustments of inventory) reducing Consolidated Net Income of such Person and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP, *provided* that if any such non-cash expenses represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA in such future period to the extent paid, but excluding from this proviso, for the avoidance of doubt, amortization of a prepaid cash item that was paid in a prior period.

“*Contingent Obligations*” means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness (“*primary obligations*”) of any other Person (the “*primary obligor*”) in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent:

(a) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

(b) to advance or supply funds:

(a) for the purchase or payment of any such primary obligation; or

(b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“*Covenant Suspension Event*” has the meaning ascribed to such term under “—Certain Covenants.”

“*Credit Facilities*” means:

(a) the Senior Term Loan Facility,

(b) any Asset Backed Credit Facility;

(c) any debt facilities or other financing arrangements (including, without limitation, commercial paper facilities) providing for revolving credit loans, term loans, letters of credit or other Indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements or refundings thereof and any indentures or credit facilities or commercial paper facilities that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount permitted to be borrowed thereunder or alters the maturity thereof (*provided* that such increase in borrowings is permitted under the covenant described under “—Certain Covenants—Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens”) or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, lender or group of lenders; and

(d) any such agreements, instruments or guarantees governing Indebtedness Incurred to refinance any Indebtedness or commitments referred to in clauses (a), (b) and (c) above whether by the same or any other lender or group of lenders.

“*Credit Facility Indebtedness*” means any and all amounts payable under or in respect of the Credit Facilities as amended, restated, supplemented, waived, replaced, restructured, repaid, refunded, refinanced or otherwise modified from time to time (including after termination of the Senior Term Loan Facility), including principal, premium (if any), interest (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company whether or not a claim for post-filing interest is allowed in such proceedings), fees, charges, expenses, reimbursement obligations, guarantees and all other amounts payable thereunder or in respect thereof.

“*Currency Agreement*” means, with respect to any Person, any foreign exchange contract, currency swap agreement, currency futures contract, currency option contract, currency derivative or other similar agreement to which such Person is a party or beneficiary.

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

“*DIP Financing*” has the meaning ascribed to such term under “—Security – Third Lien Intercreditor Agreement.”

“*DIP Financing Liens*” has the meaning ascribed to such term under “—Security – Third Lien Intercreditor Agreement.”

“*DIP Lenders*” has the meaning ascribed to such term under “—Security – Third Lien Intercreditor Agreement.”

“*DIP Roll-Up Claims*” means the Roll-Up Loans and all related Obligations of the Issuer and certain of its Affiliates under, and as is defined in, the Debtor-in-Possession Credit Agreement, dated as of March 3, 2009 among LyondellBasell Industries AF S.C.A., the other borrowers thereto (each, a debtor and debtor-in-possession under Chapter 11), the administrative agent and collateral agent, the syndication agent, joint lead arranger and sole bookrunner, as amended, supplemented, modified, extended, restructured, renewed, restated, refinanced or replaced in whole or in part from time to time, and as ordered by the Bankruptcy Court, as of the Release Date.

“*Discharge of ABL Obligations*” shall mean, except to the extent otherwise provided in the Junior Lien Intercreditor Agreement with respect to the reinstatement or continuation of any ABL Obligations under certain circumstances, the payment in full in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of all ABL Obligations then outstanding, if any, and, with respect to letters of credit or letter of credit guaranties outstanding under the ABL Facility, delivery of cash collateral or backstop letters of credit in respect thereof in a manner reasonably satisfactory to the ABL Collateral Agent and issuing lenders under the ABL Facility, in each case after or concurrently with the termination of all commitments to extend credit thereunder, and the termination of all commitments of “secured parties” under the ABL Facility (as defined therein); *provided* that the Discharge of ABL Obligations shall not be deemed to have occurred if such payments are made in connection with the establishment of a replacement Asset Backed Credit Facility (unless in connection with such replacement all of the ABL Obligations are repaid in full in cash (and the other conditions set forth in this definition prior to the *proviso* are satisfied) with the proceeds of a Qualified Receivables Financing, in which case a Discharge of ABL Obligations shall be deemed to have occurred). In the event the ABL Obligations are modified and the ABL Obligations are paid over time or otherwise modified pursuant to Section 1129 of the Bankruptcy Code, the ABL Obligations shall be deemed to be discharged when the final payment is made, in cash, in respect of such indebtedness and any obligations pursuant to such new indebtedness shall have been satisfied.

“*Discharge of First and Second Priority Lien Obligations*” shall mean, except to the extent otherwise provided in the Junior Lien Intercreditor Agreement with respect to the reinstatement or continuation of any First Priority Lien Obligation or Second Priority Lien Obligation under certain circumstances, payment in full in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of all First and Second Priority Lien Obligations and, with respect to any letters of credit or letter of credit guaranties outstanding under the First Lien Documents or Second Lien Documents, delivery of cash collateral or backstop letters of credit in respect thereof in a manner consistent with such First Lien Document or Second Lien Document, in each case after or concurrently with the termination of all commitments to extend credit thereunder, and the termination of all

commitments of the First Lien Secured Parties or Second Lien Secured Parties under the First Lien Documents or Second Lien Documents, as the case may be; *provided* that the Discharge of First and Second Priority Lien Obligations shall not be deemed to have occurred if such payments are made with the proceeds of other First Priority Lien Obligations or Second Priority Lien Obligations that constitute an exchange or replacement for or a refinancing of such Obligations, First Priority Lien Obligations or Second Priority Lien Obligations. In the event the First Priority Lien Obligations or Second Priority Lien Obligations are modified and the Obligations are paid over time or otherwise modified pursuant to Section 1129 of the Bankruptcy Code, the First Priority Lien Obligations and Second Priority Lien Obligations shall be deemed to be discharged when the final payment is made, in cash, in respect of such indebtedness and any obligations pursuant to such modified indebtedness shall have been satisfied.

*“Discharge of First Priority Lien Obligations”* shall mean, except to the extent otherwise provided in the Junior Lien Intercreditor Agreement with respect to the reinstatement or continuation of any First Priority Lien Obligation under certain circumstances, payment in full in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) of all First Priority Lien Obligations and, with respect to any letters of credit or letter of credit guaranties outstanding under the First Lien Documents, delivery of cash collateral or backstop letters of credit in respect thereof in a manner consistent with such First Lien Document, in each case after or concurrently with the termination of all commitments to extend credit thereunder, and the termination of all commitments of the First Lien Secured Parties under the First Lien Documents; *provided* that the Discharge of First Priority Lien Obligations shall not be deemed to have occurred if such payments are made with the proceeds of other First Priority Lien Obligations that constitute an exchange or replacement for or a refinancing of such Obligations or First Priority Lien Obligations. In the event the First Priority Lien Obligations are modified and the Obligations are paid over time or otherwise modified pursuant to Section 1129 of the Bankruptcy Code, the First Priority Lien Obligations shall be deemed to be discharged when the final payment is made, in cash, in respect of such indebtedness and any obligations pursuant to such modified indebtedness shall have been satisfied.

*“Disqualified Stock”* means, with respect to any Person, any Capital Stock of such Person which, by its terms (or by the terms of any security into which it is convertible or for which it is redeemable or exchangeable), or upon the happening of any event:

- (a) matures or is mandatorily redeemable, pursuant to a sinking fund Obligation or otherwise (other than as a result of a change of control or asset sale),
- (b) is convertible or exchangeable for Indebtedness or Disqualified Stock of such Person, or
- (c) is redeemable at the option of the holder thereof, in whole or in part (other than solely as a result of a change of control or asset sale),

in each case prior to 91 days after the earlier of the maturity date of the Notes or the date the Notes are no longer outstanding; *provided*, that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; *provided, further*, that if such Capital Stock is issued to any employee or to any plan for the benefit of employees of the Company or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Company in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability; *provided, further*, that any class of Capital Stock of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of Capital Stock that is not Disqualified Stock shall not be deemed to be Disqualified Stock.

*“Domestic Subsidiary”* means a Restricted Subsidiary that is not a Foreign Subsidiary.

*“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).

*“Equity Offering”* means any public or private sale after the Issue Date of common stock or Preferred Stock (other than Disqualified Stock) of the Company or any direct or indirect parent entity of the Company (to the extent the proceeds thereof are contributed to the Company), as applicable, on a primary basis, other than:

- (a) public offerings with respect to the Company’s or such direct or indirect parent entity’s common stock registered on Form S-4 or Form S-8;
- (b) issuances to any Subsidiary of the Company; and
- (c) any such public or private sale that constitutes an Excluded Contribution.

*“Euro Securitization”* means the transaction to be dated as of its effective date entered into in connection with the €450 million revolving securitization facility of trade account receivables with Basell Sales and Marketing Company B.V. and Lyondell Chemie Nederland B.V., as sellers, and Basell Polyolefins Collections Ltd., as receivables purchaser, as such facility may be amended, supplemented, modified, extended, restructured, renewed, restated, refinanced or replaced in whole or in part from time to time.

“*Excluded Assets*” has the meaning ascribed to such term under “—Security—General.”

“*Excluded Subsidiary*” means (i) any Receivables Subsidiary, (ii) any Qualified Non-Recourse Subsidiary, (iii) any Special Purpose Subsidiary, (iv) any Wholly Owned Domestic Subsidiary that is a subsidiary of a Foreign Subsidiary, and (v) any Domestic Subsidiary of the Company as of the Issue Date or at any time thereafter meeting any one of the following conditions that has been designated by the Issuer as an Excluded Subsidiary in a writing to the Trustee (which designation may be rescinded by granting a Guarantee in accordance with the requirements of the Indenture): (a) the Total Assets of such Domestic Subsidiary determined as of the end of the fiscal year of the Company most recently ended for which financial statements are required to be delivered under the Indenture does not exceed \$37.5 million, or (b) the Consolidated EBITDA of such Domestic Subsidiary does not exceed \$37.5 million, for the period of four consecutive quarters of the Company most recently ended for which financial statements are required to be delivered pursuant to the Indenture; *provided* that if, at any time or from time to time after the Issue Date, Domestic Subsidiaries (other than a Special Purpose Subsidiary) shall not be designated as Excluded Subsidiaries to the extent that such Domestic Subsidiaries under this clause (v) would represent, in the aggregate, (a) 7.5% or more of Total Assets of the Company at the end of the most recently ended fiscal year of the Company or (b) 7.5% or more of the Consolidated EBITDA of the Company for the most recently ended fiscal year, in each case, based upon the most recent financial statements required to be delivered pursuant to the Indenture; *provided, further*, that, if the most recent financial statements required to be delivered pursuant to the Indenture for any fiscal quarter occurring after the Issue Date indicate that, by reason of subsequent changes following the designation of any one or more Restricted Subsidiaries as an Excluded Subsidiary or Excluded Subsidiaries, the foregoing requirements of this definition would not be complied with (other than as a result of an impairment charge), individually or in the aggregate, then the Company shall use commercially reasonable efforts to promptly (but in any event within 180 days after the date the financial statements are required), rescind such designations as are necessary, and provide such Guarantees as are necessary, so as to comply with the requirements of the Indenture. Any uncured Default shall not occur until the expiration of such 180-day provided such efforts are used.

“*Exit Financing*” means that certain financing to finance the Reorganization Plan expected to be composed of the Senior Term Loan Facility, the ABL Facility, the Euro Securitization, the Plan Roll-Up Notes and the Notes.

“*Fair Market Value*” means, with respect to any asset or property, the price which could be negotiated in an arm’s-length transaction, for cash, between a willing seller and a willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction; *provided* that, other than as expressly set forth in the Indenture, for purposes of determining the “Fair Market Value” of any property or assets, such Fair Market Value shall be determined by (x) the Company in good faith with respect to property or assets with a Fair Market Value not in excess of \$250.0 million, (y) an opinion as to the Fair Market Value issued by a qualified accounting, appraisal, financial advisory or investment banking firm or (z) the Board of Directors of the Company, as evidenced by a certificate of an officer of the Company, with respect to property or assets with a Fair Market Value in excess of \$250.0 million.

“*First Lien Collateral Agents*” mean the Collateral Agent and the Senior Term Loan Collateral Agent.

“*First Lien Documents*” means the credit, guarantee and security documents governing the First Priority Lien Obligations (and any Additional First Priority Lien Obligations), including, without limitation, the Indenture and the First Lien Security Documents.

“*First Lien Indenture*” means the indenture under which the First Lien Notes are issued, as amended, supplemented, modified, extended, restructured, renewed or restated in whole or in part from time to time, in accordance with the terms thereof.

“*First Lien Intercreditor Agreement*” has the meaning ascribed to such term under “—Security—First Lien Intercreditor Agreement.”

“*First Lien Notes*” means the 8.000% notes due on November 1, 2017, issued by LBI Escrow Corporation, as predecessor to the Issuer as amended, supplemented, modified, extended, restructured, renewed, restated, refinanced, defeased or replaced in whole or in part from time to time.

“*First Lien Notes Collateral Agent*” means Deutsche Bank Trust Company Americas as collateral agent under the First Lien Notes.

“*First Lien Notes Obligations*” means Obligations in respect of the First Lien Notes (including other first lien notes Incurred pursuant to clause (a) of the second paragraph of the covenant described under “—Certain Covenants—Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens”), the First Lien Indenture and the Security Documents, including, for the avoidance of doubt, Obligations in respect of exchange notes and guarantees thereof.

“*First Lien Paying Agent*” means any Person authorized by the Issuer to pay the principal of or interest on any First Lien Notes on behalf of the Issuer. Deutsche Bank Trust Company Americas shall initially be the First Lien Paying Agent with respect to the U.S. Dollar-denominated First Lien Notes on the Issue Date and Deutsche Bank AG, London Branch shall initially be the Paying Agent with respect to the Euro-denominated First Lien Notes on the Issue Date.

“*First Lien Secured Parties*” means (a) the “Secured Parties,” as defined in the Senior Term Loan Facility, (b) the “Secured Parties,” as defined in the Collateral Agreement and (c) any Additional First Lien Secured Parties.

“*First Lien Security Documents*” means the Security Documents and any other agreement, document or instrument pursuant to which a Lien is granted or purported to be granted securing First Priority Lien Obligations, and any Additional First Priority Lien Obligations or under which rights or remedies with respect to such Liens are governed, in each case to the extent relating to the collateral securing both the First Priority Lien Obligations.

“*First Lien Trustee*” means the party named as such in the First Lien Indenture until a successor replaces it and, thereafter, means the successor.

“*First Priority After-Acquired Property*” means (x) at any time the outstanding principal amount of loans under the Senior Term Loan Facility is greater than \$500.0 million, any property of the Company, the Issuer or any Pledgor that secures any First Priority Lien Obligations and Other First-Lien Obligations other than the First Lien Notes that is not already subject to the Lien under the Security Documents, other than any Excluded Assets, and (y) if clause (x) is not applicable, then any property of the Company, the Issuer or any Pledgor that constitutes Notes Collateral (other than Excluded Assets).

“*First Priority Lien Obligations*” means all Indebtedness (other than Permitted Indebtedness) secured by a Lien (a “Specified Lien”) on property and assets of the Company, the Issuer and the Pledgors with a Fair Market Value equal to, or the greater than, the greater of (i) 2% of Consolidated Net Tangible Assets and (ii) \$280 million, having priority over the Lien securing the Notes.

“*First Priority Secured Indebtedness Leverage Ratio*” means, with respect to any Person, at any date the ratio of (i) (x) the amount of Secured Indebtedness constituting First Priority Lien Obligations of such Person and its Restricted Subsidiaries as of such date of calculation less (y) the amount of any such Person’s Cash Equivalents (each as determined on a consolidated basis in accordance with GAAP) to (ii) Consolidated EBITDA of such Person for the four full fiscal quarters for which internal financial statements are available immediately preceding such date of such calculation. In the event that the Company or any of its Restricted Subsidiaries Incurs, repays, repurchases or redeems any Indebtedness subsequent to the commencement of the period for which the First Priority Secured Indebtedness Leverage Ratio is being calculated but prior to the event for which the calculation of the First Priority Secured Indebtedness Leverage Ratio is made (the “*First Lien Secured Leverage Calculation Date*”), then the First Priority Secured Indebtedness Leverage Ratio shall be calculated giving *pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness as if the same had occurred at the beginning of the applicable four-quarter period; *provided* that the Issuer may elect pursuant to an Officer’s Certificate delivered to the Trustee to treat all or any portion of the commitment under any Indebtedness as being Incurred at such time, in which case any subsequent Incurrence of Indebtedness under such commitment shall not be deemed, for purposes of this calculation, to be an Incurrence at such subsequent time.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP), in each case with respect to an operating unit of a business, and any operational changes that the Company or any of its Restricted Subsidiaries has determined to make and/or made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the First Lien Secured Leverage Calculation Date shall be calculated on a *pro forma* basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, discontinued operations and other operational changes (and the change of any associated Indebtedness and the change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation, amalgamation, discontinued operation or operational change, in each case with respect to an operating unit of a business, that would have required adjustment pursuant to this definition, then the First Priority Secured Indebtedness Leverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such Investment, acquisition, disposition, discontinued operation, merger, amalgamation, consolidation or operational change had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever *pro forma* effect is to be given to any event, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Company. Any such *pro forma* calculation may include adjustments appropriate, in the reasonable good faith determination of the Company as set forth in an Officer’s Certificate, to reflect (1) operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event and (2) all adjustments of the nature set forth as “Restructuring Adjustments” under “Unaudited Consolidated Pro Forma Financial Information” in this Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such four-quarter period.

For the purposes of this definition, any amount in a currency other than U.S. Dollars will be converted to U.S. Dollars based on the average exchange rate for such currency for the most recent twelve-month period immediately prior to the date of determination or if any such Indebtedness is subject to a Currency Agreement with respect to the currency in which such Indebtedness is denominated covering principal, premium, if any, and interest on such Indebtedness, the amount of such Indebtedness and such

interest and premium, if any, shall be determined after giving effect to all payments in respect thereof under such Currency Agreement.

“*First Priority Secured Leverage Calculation Date*” has the meaning ascribed to such term in the definition of “First Priority Secured Indebtedness Leverage Ratio.”

“*First Priority Secured Indebtedness Limit*” means \$4,870 million plus, any Indebtedness constituting First Priority Lien Obligations Incurred to refinance, replace or defease any Indebtedness in respect of the Notes, the DIP Roll-Up Claims or the New Third Lien Notes.

“*First and Second Priority Lien Obligations*” means First Priority Lien Obligations and Second Priority Lien Obligations.

“*Foreign Subsidiary*” means a Restricted Subsidiary not organized or existing under the laws of the United States of America or any state or territory thereof or the District of Columbia and any direct or indirect Restricted Subsidiary of such Restricted Subsidiary.

“*GAAP*” means generally accepted accounting principles in the United States 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 on the Issue Date as adopted by the Company. For the purposes of the Indenture, the term “consolidated” with respect to any Person shall mean such Person consolidated with its Restricted Subsidiaries, and shall not include any Unrestricted Subsidiary, but the interest of such Person in an Unrestricted Subsidiary will be accounted for as an Investment.

“*Government Obligations*” means securities that are:

(a) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged, or

(b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit Obligation by the United States of America, which, in each case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any such U.S. government obligations or a specific payment of principal of or interest on any such U.S. government obligations held by such custodian for the account of the holder of such depository receipt; *provided, however*, that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the U.S. government obligations or the specific payment of principal of or interest on the U.S. government obligations evidenced by such depository receipt.

“*Guarantee*” has the meaning ascribed to such term under “—The Guarantees.”

“*Guarantor*” has the meaning ascribed to such term under “—The Guarantees.”

“*Hedging Obligations*” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, emission rights, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “*Master Agreement*”), including any such obligations or liabilities under any Master Agreement.

“*holder*” or “*noteholder*” means the Person in whose name a Note is registered on the registrar’s books.

“*Incur*” means issue, assume, guarantee, incur or otherwise become liable for; *provided, however*, that any Indebtedness or Capital Stock of a Person existing at the time such person becomes a Subsidiary (whether by merger, amalgamation, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Subsidiary.

“*Indebtedness*” means, with respect to any Person:

(1) the principal and premium (if any) of any funded indebtedness of such Person in respect of borrowed money, drawn letters of credit, banker's acceptances or in respect of Capitalized Lease Obligations, if such indebtedness would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;

(2) to the extent not otherwise included, any Obligation of such Person to be liable for, or to pay, as obligor, guarantor or otherwise, the Obligations referred to in clause (1) of another Person (other than by endorsement of negotiable instruments for collection in the ordinary course of business); and

(3) to the extent not otherwise included, Indebtedness of the type referred to in clause (1) above of another Person secured by a Lien on any asset owned by such Person (whether or not such Indebtedness is assumed by such Person); provided, however, that the amount of such Indebtedness will be the lesser of: (a) the Fair Market Value of such asset at such date of determination, and (b) the amount of such Indebtedness of such other Person;

provided, however, that, notwithstanding the foregoing, Indebtedness shall be deemed not to include (1) Contingent Obligations Incurred in the ordinary course of business and not in respect of borrowed money; (2) deferred or prepaid revenues; (3) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed Obligations of the respective seller; or (4) Obligations under or in respect of reimbursement obligations, undrawn letters of credit, a Qualified Receivables Financing or Qualified Joint Venture Transaction.

Notwithstanding anything in the Indenture to the contrary, Indebtedness shall not include, and shall be calculated without giving effect to, the effects of Statement of Financial Accounting Standards No. 133 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under the Indenture as a result of accounting for any embedded derivatives created by the terms of such Indebtedness; and any such amounts that would have constituted Indebtedness under the Indenture but for the application of this sentence shall not be deemed an Incurrence of Indebtedness under the Indenture.

"*Indenture*" means the indenture under which the Notes are issued, as amended, supplemented, modified, extended, restructured, renewed or restated in whole or in part from time to time, in accordance with the terms thereof.

"*Intercreditor Agreements*" means, collectively, the Junior Lien Intercreditor Agreement and the Third Lien Intercreditor Agreement.

"*Insolvency or Liquidation Proceeding*" shall mean, with respect to any person, any (a) insolvency, bankruptcy, receivership, reorganization, readjustment, composition or other similar proceeding relating to such person or its property or creditors in such capacity, (b) proceeding for any liquidation, dissolution or other winding up of such person, voluntary or involuntary, whether or not involving insolvency or proceedings under the Bankruptcy Code, whether partial or complete and whether by operation of law or otherwise, (c) assignment for the benefit of creditors of such person or (d) other marshalling of the assets of such person.

"*Investment Grade Rating*" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other Rating Agency.

"*Investments*" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees (other than guarantees of performance made by the Company or any of its Restricted Subsidiaries in connection with a Joint Venture)), advances or capital contributions (excluding accounts receivable, trade credit and advances to customers and commission, travel and similar advances to officers, employees and consultants made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet of the Company in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. For purposes of the definition of "Unrestricted Subsidiary":

(a) "Investments" shall include the portion (proportionate to the Company's equity interest in such Subsidiary) of the Fair Market Value of the net assets of a Subsidiary of the Company at the time that such Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that, upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary equal to an amount (if positive) equal to:

(a) the Company's "Investment" in such Subsidiary at the time of such redesignation less

(b) the portion (proportionate to the Company's equity interest in such Subsidiary) of the Fair Market Value of the net assets of such Subsidiary at the time of such redesignation; and

(b) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value at the time of such transfer, in each case as determined in good faith by the Board of Directors of the Company.

"*Issue Date*" means [ ], 2010.

“*Issuer*” means Lyondell Chemical Company, a Delaware corporation, and any successor thereto in accordance with the Indenture.

“*Joint Venture*” means any joint venture entity, whether a company, unincorporated firm, association, partnership or any other entity which, in each case, is not a Subsidiary of the Company or any of its Restricted Subsidiaries but in which the Company or a Restricted Subsidiary has a direct or indirect equity or similar interest.

“*Junior Lien Intercreditor Agreement*” has the meaning ascribed to such term under “—Security—Junior Lien Intercreditor Agreement.”

“*Lien*” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or similar 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 sell or give a security interest); *provided* that in no event shall an operating lease, rights of set-off or netting arrangements in the ordinary course of business be deemed to constitute a Lien.

“*Master Agreement*” has the meaning ascribed to such term in the definition of “Hedging Obligations”

“*Moody’s*” means Moody’s Investors Service, Inc. or any successor to the rating agency business thereof.

“*Mortgaged Property*” means each parcel of Real Property owned or leased by the Company, the Issuer or any Pledgor encumbered by a Mortgage to secure the First Priority Lien Obligations.

“*Mortgages*” means, collectively, the mortgages, trust deeds, deeds of trust, deeds to secure debt, assignments of leases and rents, and other security documents delivered with respect to Mortgaged Properties, as amended, supplemented, modified, extended, restructured, renewed, restated or replaced in whole or in part from time to time.

“*Negromex Receivables Dispositions*” means any disposition of accounts receivables arising from transactions with Industrias Negromex, S.A. de C.V.

“*Net Income*” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

“*New Third Lien Notes*” means the 11.000% notes due on May 1, 2018, issued by the Issuer as amended, supplemented, modified, extended, restructured, renewed, restated, refinanced, defeased or replaced in whole or in part from time to time.

“*Notes Collateral*” has the meaning ascribed to such term under “—Security—General.”

“*Notes Obligations*” means Obligations in respect of the Notes, the Indenture and the Security Documents, including, for the avoidance of doubt, Obligations in respect of exchange notes and guarantees thereof.

“*Obligations*” means any principal, interest, penalties, fees, indemnifications, reimbursements (including, without limitation, reimbursement obligations with respect to letters of credit and bankers’ acceptances), damages and other liabilities payable under the documentation governing any Indebtedness; *provided* that Obligations with respect to the Notes shall not include fees or indemnifications in favor of the Trustee and other third parties other than the holders of the Notes.

“*Offering Memorandum*” means the offering memorandum dated as of March 24, 2010, relating to the initial issuance of First Lien Notes under the First Lien Indenture.

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

“*Officer’s Certificate*” means a certificate signed on behalf of any Person by an Officer of such Person, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of such Person, which meets the requirements set forth in the Indenture.

“*Oil Indexed Credit Facility*” means a working capital facility for which availability is conditioned upon the price per barrel of crude oil that is not less than \$125.0 and the proceeds of which are utilized for working capital purposes and related fees and expenses.

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



*“Other First-Lien Obligations”* means other Indebtedness of the Company and its Restricted Subsidiaries that is equally and ratably secured with the First Lien Notes as permitted by the First Lien Indenture and is designated by the Company as an Other First-Lien Obligation.

*“Owned Real Property”* means each parcel of Real Property that is owned in fee by the Company, the Issuer or any Pledgor that has an individual Fair Market Value of more than \$25.0 million (*provided* that such \$25.0 million threshold shall not be applicable in the case of any Real Property that is integrally related to the ownership or operation of a Mortgaged Property or otherwise necessary for such Mortgaged Property to be in compliance with all requirements of law applicable to such Mortgaged Property); *provided* that, with respect to any Real Property that is partially owned in fee and partially leased by the Company, the Issuer or any Pledgor, Owned Real Property will include only that portion of such Real Property that is owned in fee and only if (i) such portion that is owned in fee has an individual Fair Market Value of more than \$25.0 million (*provided* that such \$25.0 million threshold shall not be applicable in the case of Real Property that is integrally related to the ownership or operation of a Mortgaged Property or otherwise necessary for such Mortgaged Property to be in compliance with all requirements of law applicable to such Mortgaged Property) and (ii) a mortgage in favor of the Collateral Agent (for the benefit of the trustee and the holders of the Notes) is permitted on such portion of Real Property owned in fee by applicable law and by the terms of any lease or other applicable document governing any leased portion of such Real Property.

*“Paying Agent”* means any Person authorized by the Issuer to pay the principal of or interest on any Notes on behalf of the Issuer. Deutsche Bank Trust Company Americas shall initially be the Paying Agent on the Issue Date.

*“Payor”* has the meaning ascribed to such term under “—The Guarantees—Withholding Taxes.”

*“Permitted Indebtedness”* has the meaning ascribed to such term under “—Certain Covenants—Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens.”

*“Permitted Liens”* means any Lien securing Permitted Indebtedness.

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

*“Plan Roll-Up Notes”* means (a) third-priority senior secured notes of the Issuer and guaranteed by one or more Guarantors issued in respect of DIP Roll-Up Claims under the Reorganization Plan; *provided* that any Indebtedness issued in lieu of the Plan Roll-Up Notes in respect of DIP Roll-Up Claims will be deemed to be Plan Roll-Up Notes (provided that any such Indebtedness is Incurred in compliance with the terms of the Indenture applicable to refinancings and replacements of Plan Roll-Up Notes had they been issued pursuant to the Plan of Reorganization), or (b) any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements or refundings thereof and any indentures or credit facilities or commercial paper facilities that replace, refund or refinance any part thereof.

*“Plan Roll-Up Notes Indenture”* means the indenture or indentures under which the Plan Roll-Up Notes are issued, as amended, supplemented, modified, extended, restructured, renewed, re-stated, refinanced or replaced in whole or in part from time to time all in accordance with this Indenture; provided no such amendment or modification may shorten the maturity of the Plan-Roll-Up Notes.

*“Plan Roll-Up Notes Trustee”* means, collectively, the trustee for the New Third Lien Notes, the trustee for the Notes, any Authorized Representative for any Additional Third Priority Lien Obligation, and, if the context so requires, the Authorized Collateral Agent for such trustees or Authorized Representatives.

*“Pledgor”* means any Guarantor other than the Company; *provided* that upon the release or discharge of such Subsidiary from its Obligations to pledge its assets and property to secure the Notes in accordance with the Indenture or the Security Documents, such Subsidiary ceases to be a Pledgor.

*“Preferred Stock”* means any Equity Interest with preferential right of payment of dividends or upon liquidation, dissolution, or winding up.

*“Purchase Money Indebtedness”* means any Indebtedness incurred to finance or refinance the acquisition, leasing, construction, repair, restoration, replacement, expansion or improvement of property (real or personal) or assets, and whether acquired through the direct acquisition of such property or assets, or otherwise, incurred in respect of capital expenditures.

*“Qualified Joint Venture Transaction”* means any transaction in which (i) Indebtedness is owed or incurred by any Restricted Subsidiary whose activities are limited to holding shares in Joint Ventures (but only to the extent that (a) the creditors under the relevant agreement have no recourse to the Company other than to such Restricted Subsidiary; and (b) the recourse those creditors have to such Restricted Subsidiary is limited to the proceeds (if any) of dividends received by such Restricted Subsidiary in respect of such Restricted Subsidiary’s investment in such Joint Ventures) or (ii) involving guarantees by the Company or any Restricted Subsidiary of Indebtedness of a customer or a third party guarantor of such customer’s Indebtedness that are made to a governmental

export credit agency, a state development bank or like governmental agency or organization to the extent that such guarantees are conditioned on a failure to perform by any of the Company, such Restricted Subsidiary or a joint venture under an engineering procurement or construction contract entered into with such customer or third party guarantor; *provided* that the aggregate amount of any Indebtedness referenced in this clause (ii) shall not at any time exceed 1.0% of Consolidated Net Tangible Assets of the Company.

*“Qualified Non-Recourse Debt”* means Indebtedness that (1) is (a) Incurred by a Qualified Non-Recourse Subsidiary to finance (whether prior to or within 270 days after) the acquisition, lease, construction, repair, replacement or improvement of any property (real or personal) or equipment (whether through the direct purchase of property or the Equity Interests of any person owning such property and whether in a single acquisition or a series of related acquisitions) or (b) assumed by a Qualified Non-Recourse Subsidiary, (2) is non-recourse to the Company, the Issuer and any Pledgor and (3) is non-recourse to any Restricted Subsidiary that is not a Qualified Non-Recourse Subsidiary.

*“Qualified Non-Recourse Subsidiary”* means (1) a Restricted Subsidiary that is not a Pledgor and that is formed or created after the Issue Date in order to finance an acquisition, lease, construction, repair, replacement or improvement of any property or equipment (directly or through one of its Subsidiaries) that secures Qualified Non-Recourse Debt and (2) any Restricted Subsidiary of a Qualified Non-Recourse Subsidiary.

*“Qualified Receivables Financing”* means any Receivables Financing that meets the following conditions (including, without limitation, the Euro Securitization, the Berre Facility and the Negromex Receivables Dispositions):

(a) the Board of Directors of the Company shall have determined in good faith that such Qualified Receivables Financing (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Company and its Restricted Subsidiaries;

(b) all sales of accounts receivable and related assets are made at Fair Market Value; and

(c) the financing terms, covenants, termination events and other provisions thereof shall be market terms (as determined in good faith by the Company) and may include Standard Securitization Undertakings.

The grant of a security interest in any accounts receivable of the Company or any of its Restricted Subsidiaries to secure the ABL Facility, any Credit Facility Indebtedness or any Indebtedness in respect of the Notes and the New Third Lien Notes shall not be deemed a Qualified Receivables Financing.

*“Rating Agency”* means (1) S&P, (2) Moody’s, or (3) if either or both of S&P and Moody’s shall not then exist, a nationally recognized securities rating agency or agencies, as the case may be, selected by the Company, which shall be substituted for S&P or Moody’s or both, as the case may be.

*“Real Property”* means, collectively, all right, title and interests (including any leasehold, mineral or other estate) in and to any and all parcels of or interests in real property owned, leased or operated by any Person, whether by lease, license or other means, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all buildings, structures, parking areas and improvements and appurtenant fixtures and equipment, all general intangibles and contract rights and other property and rights incidental to the ownership, lease or operation thereof.

*“Receivables Financing”* means any transaction or series of transactions that may be entered into by the Company or any of its Subsidiaries pursuant to which the Company or any of its Subsidiaries may sell, convey or otherwise transfer to any other Person, including to a Receivables Subsidiary, or may grant a security interest in, bank accounts, any accounts receivable (whether now existing or arising in the future) of the Company or any of its Subsidiaries, and any assets related thereto including, without limitation, all collateral securing such accounts receivable, all contracts and all guarantees or other obligations in respect of such accounts receivable, proceeds of such accounts receivable and other assets which are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving accounts receivable and any Hedging Obligations entered into by the Company or any such Subsidiary in connection with such accounts receivable.

*“Receivables Repurchase Obligation”* means any Obligation of a seller of receivables in a Qualified Receivables Financing to repurchase receivables arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, off-set or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

“*Receivables Subsidiary*” means a Wholly Owned Restricted Subsidiary of the Company (or another Person formed for the purposes of engaging in Receivables Financing with the Company in which the Company or any Subsidiary of the Company makes an Investment and to which the Company or any Subsidiary of the Company transfers accounts receivable and related assets) which engages in no activities other than in connection with the financing of accounts receivable of the Company and its Subsidiaries, all proceeds thereof and all rights (contractual or other), collateral and other assets relating thereto, and any business or activities incidental or related to such business, and which is designated by the Board of Directors of the Company (as provided below) as a Receivables Subsidiary and:

(a) no portion of the Indebtedness or any other Obligations (contingent or otherwise) of which (i) is guaranteed by the Company or any other Subsidiary of the Company (excluding guarantees of Obligations (other than the principal of and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (ii) is recourse to or obligates the Company or any other Subsidiary of the Company in any way other than pursuant to Standard Securitization Undertakings, or (iii) subjects any property or asset of the Company or any other Subsidiary of the Company, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings;

(b) with which neither the Company nor any other Subsidiary of the Company has any material contract, agreement, arrangement or understanding other than on terms which the Company reasonably believes to be no less favorable to the Company or such Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Company; and

(c) to which neither the Company nor any other Subsidiary of the Company has any obligation to maintain or preserve such entity’s financial condition or cause such entity to achieve certain levels of operating results.

Any such designation by the Board of Directors of the Company shall be evidenced to the Trustee by filing with the Trustee a certified copy of the resolution of the Board of Directors of the Company giving effect to such designation and an Officer’s Certificate certifying that such designation complied with the foregoing conditions.

“*Refinancing Indebtedness*” has the meaning ascribed to such term under “—Certain Covenants—Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens.”

“*Release Date*” has the meaning ascribed to such term in the First Lien Indenture.

“*Relevant Taxing Jurisdiction*” has the meaning ascribed to such term under “—The Guarantees—Withholding Taxes.”

“*Reorganization Plan*” means a plan of reorganization in any of the Cases.

“*Restricted Subsidiary*” means, with respect to any Person, any Subsidiary of such Person other than an Unrestricted Subsidiary of such Person. Unless otherwise indicated in this “Description of 2014 Notes,” all references to Restricted Subsidiaries shall mean Restricted Subsidiaries of the Company. For the avoidance of doubt, the Issuer shall at all times constitute a Restricted Subsidiary.

“*Reversion Date*” has the meaning ascribed to such term under “—Certain Covenants.”

“*Roll-Up Loans*” means \$3,250 million of a dollar-for-dollar “roll-up” of previously outstanding senior secured loans.

“*S&P*” means Standard & Poor’s Ratings Group or any successor to the rating agency business thereof.

“*Sale/Leaseback Transaction*” means an arrangement relating to property now owned or hereafter acquired by the Company or a Restricted Subsidiary whereby the Company or a Restricted Subsidiary transfers such property to a Person and the Company or such Restricted Subsidiary leases it from such Person, other than leases between the Company and a Restricted Subsidiary of the Company or between Restricted Subsidiaries of the Company or any Catalyst Sale/Leaseback Transaction.

“*SEC*” means the Securities and Exchange Commission or any successor agency or commission.

“*Second Lien Documents*” means the credit, guarantee and security documents governing the Second Priority Lien Obligations, including, without limitation, the ABL Facility and the Second Lien Security Documents.

“*Second Lien Secured Parties*” means (a) the “Secured Parties,” as defined in the ABL Facility, (b) the “Secured Parties,” as defined in the Collateral Agreement and (c) any Additional Second Lien Secured Parties.

“*Second Lien Security Documents*” means the Security Documents and any other agreement, document or instrument pursuant to which a Lien is granted or purported to be granted securing Second Priority Lien Obligations or under which rights or remedies with respect to such Liens are governed, in each case to the extent relating to the collateral securing the Second Priority Lien Obligations.

*“Second Priority After-Acquired Property”* means any property of the Company, the Issuer or any Pledgor that constitutes ABL Collateral (other than Excluded Assets).

*“Second Priority Lien Obligations”* has the meaning ascribed to such term in the First Lien Indenture.

*“Secured Credit Facility Indebtedness”* has the meaning ascribed to such term in the First Lien Indenture.

*“Secured Indebtedness”* means any Indebtedness (other than Purchase Money Indebtedness and Indebtedness of Non-Pledgors) secured by a Lien.

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

*“Security Documents”* means the security agreements, pledge agreements, collateral assignments, mortgages and related agreements, as amended, supplemented, modified, extended, restructured, renewed, restated or replaced in whole or in part from time to time, creating the security interests in the Collateral as contemplated by the Indenture.

*“Senior Term Loan Collateral Agent”* means UBS AG, Stamford Branch, as the collateral agent under the Senior Term Loan Facility, or its successors.

*“Senior Term Loan Facility”* means the senior secured term loan facility of the Issuer to be entered into on the Issue Date as amended, supplemented, modified, extended, restructured, renewed, restated, refinanced or replaced in whole or in part from time to time.

*“Series”* means (a) with respect to the First Lien Secured Parties, each of (i) the secured parties under the Senior Term Loan Facility (in their capacities as such), (ii) the holders of the First Lien Notes, the First Lien Notes Collateral Agent and the First Lien Trustee, each in their capacity as such) and (iii) the Additional First Lien Secured Parties that become subject to the First Lien Intercreditor Agreement after the date hereof that are represented by a common Authorized Representative (in its capacity as such for such Additional First Lien Secured Parties); (b) with respect to any First Priority Lien Obligations, each of (i) the Obligations under the Senior Term Loan Facility, (ii) the First Lien Notes Obligations and the Obligations in respect of any refunding, refinancing or defeasement of the First Lien Notes and (iii) the Additional First Priority Lien Obligations Incurred pursuant to any applicable agreement, which pursuant to any joinder agreement, are to be represented under the First Lien Intercreditor Agreement by a common Authorized Representative (in its capacity as such for such Additional First Priority Lien Obligations); and (c) with respect to any Third Priority Lien Obligations, each of (i) the Notes Obligations and the Obligations in respect of any refunding, refinancing or defeasement of the Notes, (ii) the New Third Lien Notes and the Obligations in respect of any refunding, refinancing or defeasement of the New Third Lien Notes and (iii) the Third Priority Lien Obligations Incurred after the Issue Date pursuant to any applicable agreement.

*“Significant Subsidiary”* means any Restricted Subsidiary that would be a “Significant Subsidiary” of the Company within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC (or any successor provision).

*“Special Purpose Subsidiary”* means any Subsidiary of the Company whose material assets are comprised solely of the Capital Stock of a Joint Venture, where the pledge of such Capital Stock would be prohibited by any contractual requirement pertaining to such Joint Venture.

*“Specified Lien”* has the meaning ascribed to such term in the definition of *“First Priority Lien Obligations”*.

*“Specified Sale/Leaseback Transaction”* has the meaning ascribed to such term under “—Certain Covenants—Limitation on Sale/Leaseback Transactions.”

*“Sponsor”* means Apollo Global Management, LLC and any of its successors in interest or Affiliates.

*“Standard Securitization Undertakings”* means representations, warranties, undertakings, covenants, indemnities and guarantees of performance entered into by the Company or any Subsidiary of the Company which the Company has determined in good faith to be customary in a Receivables Financing it being understood that any Receivables Repurchase Obligation shall be deemed to be a Standard Securitization Undertaking.

*“Stated Maturity”* means, with respect to any security, the date specified in such security as the fixed date on which the final payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase of such security at the option of the holder thereof upon the happening of any contingency beyond the control of the issuer unless such contingency has occurred).

*“Structured Financing Transaction”* means a sale of preferred shares of a Restricted Subsidiary, depositing the proceeds of such sale with a bank and pledging such deposit to guarantee a put and call with respect to such preferred shares.

“*Subordinated Indebtedness*” means (a) with respect to the Issuer, any Indebtedness of the Issuer which is by its terms subordinated in right of payment to the Notes, and (b) with respect to any Guarantor, any Indebtedness of such Guarantor which is by its terms subordinated in right of payment to Obligations in respect of the Notes.

“*Subsidiary*” means, with respect to any Person, (1) any corporation, association or other business entity (other than a partnership, joint venture or limited liability company) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof; (2) any partnership, joint venture or limited liability company of which (x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (y) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity; or (3) with respect to the Company, for so long as the Company or any of its Subsidiaries, individually or in the aggregate, has at least a 50% ownership interest in Lyondell Bayer Manufacturing Maasvlakle VOF, Lyondell Bayer Manufacturing Maasvlakle VOF. Unless otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” in this Agreement shall refer to a Subsidiary or Subsidiaries of the Company.

“*Suspended Covenants*” has the meaning ascribed to such term under “—Certain Covenants.”

“*Suspension Period*” has the meaning ascribed to such term under “—Certain Covenants.”

“*Taxes*” has the meaning ascribed to such term under “—The Guarantees—Withholding Taxes.”

“*Third Lien Common Collateral*” means, at any time, Collateral in which the holders of two or more Series of Third Priority Lien Obligations (or their respective Authorized Representatives) hold a valid and perfected security interest at such time. If more than two Series of Third Priority Lien Obligations are outstanding at any time and the holders of less than all Series of Third Priority Lien Obligations hold a valid and perfected security interest in any Collateral at such time then such Collateral shall constitute Third Lien Common Collateral for those Series of Third Priority Lien Obligations that hold a valid security interest in such Collateral at such time and shall not constitute Third Lien Common Collateral for any Series which does not have a valid and perfected security interest in such Collateral at such time.

“*Third Lien Controlling Secured Party*” means, with respect to any Third Lien Common Collateral, holders of the Series of Third Priority Lien Obligations whose Authorized Representative is the Authorized Collateral Agent for such Third Lien Common Collateral.

“*Third Lien Indenture*” means the indenture under which the New Third Lien Notes are issued, as amended, supplemented, modified, extended, restructured, renewed or restated in whole or in part from time to time, in accordance with the terms thereof.

“*Third Lien Intercreditor Agreement*” has the meaning ascribed to such term under “—Security—Third Lien Intercreditor Agreement.”

“*Third Lien Intervening Creditor*” has the meaning ascribed to such term under “—Security—Third Lien Intercreditor Agreement.”

“*Third Lien Non-Controlling Secured Party*” means, with respect to any Third Lien Common Collateral, the Third Lien Secured Parties that are not Third Lien Controlling Secured Parties with respect to such Third Lien Common Collateral.

“*Third Lien Notes Collateral Agent*” means [\_\_\_\_\_].

“*Third Lien Secured Indebtedness*” means:

(a) with respect to the Issuer, the Notes and any other Indebtedness (other than Permitted Indebtedness) which ranks *pari passu* in right of payment to the Notes and is secured by a Specified Lien on an equal and ratable basis with the Notes; and

(b) with respect to any Pledgor, its Obligations in respect of the Notes and any other Indebtedness (other than Permitted Indebtedness) which ranks *pari passu* in right of payment to such Pledgor’s Obligations in respect of the Guarantees of the Notes and is secured by a Specified Lien on an equal and ratable basis with the Notes.

“*Third Lien Secured Indebtedness Limit*” means \$3,245 million.

“*Third Lien Secured Indebtedness Leverage Ratio*” means, with respect to any Person, at any date the ratio of (i) (x) the amount of Secured Indebtedness constituting First Priority Lien Obligations and Third Lien Secured Indebtedness of such Person and its Restricted Subsidiaries as of such date of calculation less (y) the amount of any such Person’s Cash Equivalents (each as determined on a consolidated basis in accordance with GAAP) to (ii) Consolidated EBITDA of such Person for the four full fiscal

quarters for which internal financial statements are available immediately preceding such date of such calculation. In the event that the Company or any of its Restricted Subsidiaries Incurs, repays, repurchases or redeems any Indebtedness subsequent to the commencement of the period for which the Third Lien Secured Indebtedness Leverage Ratio is being calculated but prior to the event for which the calculation of the Third Lien Secured Indebtedness Leverage Ratio is made (the “*First Lien Secured Leverage Calculation Date*”), then the Third Lien Secured Indebtedness Leverage Ratio shall be calculated giving *pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness as if the same had occurred at the beginning of the applicable four-quarter period; *provided* that the Issuer may elect pursuant to an Officer’s Certificate delivered to the Trustee to treat all or any portion of the commitment under any Indebtedness as being Incurred at such time, in which case any subsequent Incurrence of Indebtedness under such commitment shall not be deemed, for purposes of this calculation, to be an Incurrence at such subsequent time.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP), in each case with respect to an operating unit of a business, and any operational changes that the Company or any of its Restricted Subsidiaries has determined to make and/or made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the First Lien Secured Leverage Calculation Date shall be calculated on a *pro forma* basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, discontinued operations and other operational changes (and the change of any associated Indebtedness and the change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation, amalgamation, discontinued operation or operational change, in each case with respect to an operating unit of a business, that would have required adjustment pursuant to this definition, then the Third Lien Secured Indebtedness Leverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such Investment, acquisition, disposition, discontinued operation, merger, amalgamation, consolidation or operational change had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever *pro forma* effect is to be given to any event, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Company. Any such *pro forma* calculation may include adjustments appropriate, in the reasonable good faith determination of the Company as set forth in an Officer’s Certificate, to reflect (1) operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event and (2) all adjustments of the nature set forth as “Restructuring Adjustments” under “Unaudited Consolidated Pro Forma Financial Information” in this Offering Memorandum to the extent such adjustments, without duplication, continue to be applicable to such four-quarter period.

For the purposes of this definition, any amount in a currency other than U.S. Dollars will be converted to U.S. Dollars based on the average exchange rate for such currency for the most recent twelve-month period immediately prior to the date of determination or if any such Indebtedness is subject to a Currency Agreement with respect to the currency in which such Indebtedness is denominated covering principal, premium, if any, and interest on such Indebtedness, the amount of such Indebtedness and such interest and premium, if any, shall be determined after giving effect to all payments in respect thereof under such Currency Agreement.

“*Third Lien Secured Leverage Calculation Date*” has the meaning ascribed to such term in the definition of “Third Lien Secured Indebtedness Leverage Ratio.”

“*Third Lien Secured Party*” means (a) the “Secured Parties,” as defined in the Third Lien Notes Indenture, (b) the “Secured Parties,” as defined in the Collateral Agreement and (c) any Additional Third Lien Secured Parties.

“*Third Lien Trustee*” means the party named as such in the Third Lien Indenture until a successor replaces it and, thereafter, means the successor.

“*Third Priority Lien Obligations*” means (i) all Indebtedness under the Notes, (ii) the Notes Obligations and the Obligations in respect of any refunding, refinancing or defeasement of the Notes, (iii) all Indebtedness under the New Third Lien Notes, (iv) the Obligations in respect of the New Third Lien Notes and the Obligations in respect of any refunding, refinancing or defeasement of the Third Lien Notes and (v) Third Priority Lien Obligations that are Incurred after the Issue Date and secured by the Notes Collateral on a third priority basis pursuant to the Security Documents.

“*TIA*” means the Trust Indenture Act of 1939 (15 U.S.C. Sections 77aaa-77bbbb) as in effect on the date of the Indenture.

“*Total Assets*” means, with respect to any Person, the total consolidated assets of such Person and its Restricted Subsidiaries, without giving effect to any amortization of the amount of intangible assets since the Issue Date, (x) as shown on the most recent balance sheet of such Person, or (y) in regards to the Company only, as shown on the most recent balance sheet.

“*Transfer*” means any consolidation, amalgamation or merger with or into or winding up into, or sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of any Pledgor.

“*Treasury Services Agreement*” means any agreement between the Issuer, any Guarantor or Restricted Subsidiary and any commercial bank or other financial institution relating to treasury, depository, and cash management services, employee credit card arrangements or automated clearinghouse transfer of funds.

“*Trustee*” means the party named as such in the Indenture until a successor replaces it and, thereafter, means the successor.

“*Unrestricted Subsidiary*” means:

(a) any Subsidiary of the Company that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors of such Person in the manner provided below; and

(b) any Subsidiary of an Unrestricted Subsidiary;

The Company may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary of the Company) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on any property of, the Company or any other Subsidiary of the Company that is not a Subsidiary of the Subsidiary to be so designated; *provided, however*, that the Subsidiary to be so designated and its Subsidiaries do not at the time of designation have and do not thereafter Incur any Indebtedness pursuant to which the lender has recourse to any of the assets of the Company or any of its Restricted Subsidiaries (except as permitted under “—Certain Covenants—Limitation on Incurrence of Indebtedness Secured by Prior or Equal and Ratable Liens”).

The Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary.

“*Unrestricted Subsidiary*” has the meaning ascribed to such term in the First Lien Notes Indenture.

“*Weighted Average Life to Maturity*” means, when applied to any Indebtedness or Disqualified Stock or Preferred Stock, as the case may be, at any date, the quotient obtained by dividing (1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock multiplied by the amount of such payment, by (2) the sum of all such payments.

“*Wholly Owned Domestic Subsidiary*” is any Wholly Owned Subsidiary that is a Domestic Subsidiary.

“*Wholly Owned Restricted Subsidiary*” is any Wholly Owned Subsidiary that is a Restricted Subsidiary.

“*Wholly Owned Subsidiary*” of any Person means a Subsidiary of such Person 100% of the outstanding Capital Stock or other ownership interests of which (other than directors’ qualifying shares or shares required to be held by Foreign Subsidiaries) shall at the time be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.