

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

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FILER

**Centerplate, Inc.**

CIK: **1086774** | IRS No.: **133870167** | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **8-K** | Act: **34** | File No.: **001-31904** | Film No.: **09544028**  
SIC: **5812** Eating places

Mailing Address  
2187 ATLANTIC STREET  
6TH FLOOR  
STAMFORD CT 06902

Business Address  
2187 ATLANTIC STREET  
6TH FLOOR  
STAMFORD CT 06902  
203-975-5900

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

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**FORM 8-K**

**CURRENT REPORT**

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

**Date of Report (Date of earliest event reported): January 23, 2009**

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**Centerplate, Inc.**

(Exact name of registrant as specified in its charter)

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**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**001-31904**

(Commission file number)

**13-3870167**

(I.R.S. Employer  
Identification No.)

**2187 Atlantic Street  
Stamford, Connecticut 06902**  
(Address of principal executive offices)

**(203) 975-5900**

(Registrant's telephone number, including area code)

**Not Applicable**

(Former name or former address, if changed since last report)

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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### **Item 1.0.1 Entry into a Material Definitive Agreement**

On January 23, 2009, Centerplate, Inc. (the "Company") and The Bank of New York Mellon, as trustee, entered into the Supplemental Indenture, dated as of January 23, 2009 (the "Supplemental Indenture"), to the indenture dated as of December 10, 2003 (as supplemented up to and including January 23, 2009, the "Indenture"). The Supplemental Indenture was entered into in connection with the Company's previously announced tender offer and related consent solicitation (the "Offer") with respect to its 13.5% Senior Subordinated Notes due 2013 (the "Notes"). As part of the Consent Solicitation, the Company sought and received the requisite consent from holders of the Notes for certain amendments (the "Proposed Amendments") relating to the Indenture. The Proposed Amendments to the Indenture eliminate substantially all of the covenants, certain events of default and the change of control offer and modify certain provisions relating to the defeasance of the Notes and the manner in which the Company may extend the maturity of the Notes. The Proposed Amendments to the Indenture will not become operative unless and until the Company purchases validly tendered Notes pursuant to the Offer.

The Offer is made upon the terms and conditions set forth in the Company's Offer to Purchase and Consent Solicitation Statement dated December 23, 2008 (the "Statement"), and the related Consent and Letter of Transmittal. The Offer is subject to the satisfaction of certain conditions, including the merger of the Company with an affiliate of Kohlberg & Company, L.L.C. (the "Merger") pursuant to the previously announced merger agreement, as amended, having occurred, or the Merger occurring substantially concurrent with the expiration of the tender offer. Further details about the terms and conditions of the Offer are set forth in the Statement.

The foregoing summary is qualified in its entirety by reference to the Supplemental Indenture, a copy of which is attached hereto as Exhibit 4.1 and is incorporated by reference herein.

### **Item 8.01 Other Events.**

On January 23, 2009, the Company issued a press release announcing the execution of the Supplemental Indenture in connection with the Offer and the extension of the expiration date of its tender offer to purchase up to 70% of its outstanding Notes, from 5:00 p.m. New York City time, on January 23, 2009, to 5:00 p.m. New York City time, on January 26, 2009, unless otherwise extended by the Company.

A copy of the press release is attached hereto as Exhibit 99.1 and incorporated herein by reference.

### **Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits. The following exhibits are filed herewith:

<u>Exhibit No.</u>	<u>Description</u>
4.1	Supplemental Indenture, dated as of January 23, 2009, by and among Centerplate, Inc., the guarantors thereto and The Bank of New York, as trustee.
99.1	Press Release, dated January 23, 2009.

**SIGNATURE**

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

Dated: January 23, 2009

Centerplate, Inc.

By: /s/ Kevin F. McNamara

Name: Kevin F. McNamara

Title: Executive Vice President and CFO

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## EXHIBIT INDEX

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4.1	Supplemental Indenture, dated as of January 23, 2009, by and among Centerplate, Inc., the guarantors thereto and The Bank of New York, as trustee.
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## FIRST SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture"), dated as of January 23 2009, among Centerplate, Inc. (the "Company"), a Delaware corporation formerly known as Volume Services America Holdings, Inc., the subsidiaries of the Company listed on the signature pages hereto (the "Guarantors") and The Bank of New York Mellon, a New York banking corporation, as trustee (the "Trustee").

## RECITALS

WHEREAS, the Company, the Guarantors and the Trustee are parties to an Indenture dated December 10, 2003 (as amended, supplemented, waived or otherwise modified, the "Indenture") providing for the issuance of an aggregate original principal amount of \$95,677,065 of 13.5% Subordinated Notes due 2013 (the "Notes");

WHEREAS, the Company and the Guarantors propose to amend the Indenture and the Notes (the "Proposed Amendments") as contemplated hereby;

WHEREAS, the Company has solicited the consent of the Holders of the Notes pursuant to the Offer to Purchase and Consent Solicitation Statement, dated December 23, 2008, as amended, supplemented or modified (the "Consent Solicitation Statement") to the Proposed Amendments upon the terms and subject to the conditions set forth therein;

WHEREAS, the Company has received and delivered to the Trustee evidence of the consent of the Holders of at least a majority in aggregate principal amount of the Notes to the Proposed Amendments;

WHEREAS, the consent of the Holders of at least a majority in aggregate principal amount of the Notes is sufficient under the Indenture to effect the Proposed Amendments;

WHEREAS, the Supplemental Indenture does not adversely affect the rights under Articles 10 or 12 of the Indenture of any holder of Senior Indebtedness, as defined in the Indenture;

WHEREAS, all other acts and proceedings required by law, by the Indenture, and by the organizational documents of the Company and the Guarantors to make this Supplemental Indenture a valid and binding agreement for the purposes expressed herein, in accordance with its terms, have been duly done and performed;

WHEREAS, while this Supplemental Indenture will become effective when executed, the terms hereof will not become operative until the Notes are accepted for purchase by the Company pursuant to the tender offer contemplated by the Consent Solicitation Statement (such acceptance date, the "Operative Date"); and

WHEREAS, pursuant to Section 9.02 of the Indenture, the Company and the Guarantors may amend or supplement the Indenture and the Notes as contemplated hereby provided that the

Holders of at least a majority in aggregate principal amount of the Notes then outstanding have consented.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to effect the Proposed Amendments pursuant to Section 9.02 of the Indenture, the Company and the Guarantors agree with the Trustee as follows:

## ARTICLE 1

### AMENDMENT OF INDENTURE AND NOTES

1.01. Effective as of the Operative Date, pursuant to Section 9.02 of the Indenture, this Supplemental Indenture amends the Indenture and Notes as provided for herein.

1.02. *Amendment of Section 1.01.* Section 1.01 of the Indenture is hereby amended as follows:

- (a) the definitions listed in Schedule 1.01 hereto are hereby deleted in their entirety;
- (b) the definitions listed in Schedule 1.01(A) hereto are hereby amended and restated as described in Schedule 1.01A;

1.03. *Amendment of Section 1.02.* Section 1.02 of the Indenture is hereby amended by deleting in their entirety the references listed in Schedule 1.02 hereto;

1.04. *Amendment of Section 2.15.* Section 2.15 of the Indenture is hereby amended and restated as follows:

Section 2.15. Extension of Maturity. The Company may irrevocably extend the maturity date of the Securities for two additional successive five-year terms to December 10, 2018 and December 10, 2023, respectively, if the following conditions are satisfied as of the date the Company delivers to the Trustee the Officer' s Certificate described below:

- (1) during the twelve month period ending on the last day of the fiscal quarter ending at least 45 days prior to the date such Officer' s Certificate is furnished to the Trustee, the ratio of Net Debt to Adjusted EBITDA is less than 5.00 to 1.00;
- (2) no Event of Default (including certain events of bankruptcy, insolvency or reorganization of the Company or a Significant Subsidiary) has occurred and is continuing with respect to the Securities;
- (3) no Event of Default has occurred and is continuing with respect to any other Indebtedness of the Company, or could occur as a result of such extension, including under any Designated Senior Indebtedness; and

(4) there is no interest due but unpaid on the Securities or any other Indebtedness of the Company, other than trade payables in an immaterial amount.

If the Company determines to extend the maturity of the Securities, the Company, or the Trustee at the Company's direction, shall mail a notice of such extension, which notice shall include the new maturity date, by first-class mail to each Holder at such Holder's registered address, at least 30 and not more than 200 days prior to the previous maturity date; provided that in each such case, the Company shall deliver to the Trustee, at least 10 and not more than 15 days prior to the proposed date for giving such notice, an Officer's Certificate requesting that the Trustee give such notice (or informing the Trustee that the Company is giving such notice, as applicable) and setting forth the information required above. The extension of the maturity date of the Securities shall become effective automatically upon delivery of such Officer's Certificate to the Trustee and, once effective, may not be revoked.

1.05. *Amendment of Section 4.02.* Section 4.02 is hereby amended and restated as follows:

SECTION 4.02. [INTENTIONALLY OMITTED]

1.06. *Amendment of Section 4.03.* Section 4.03 is hereby amended and restated as follows:

SECTION 4.03. [INTENTIONALLY OMITTED]

1.07. *Amendment of Section 4.04.* Section 4.04 is hereby amended and restated as follows:

SECTION 4.04. [INTENTIONALLY OMITTED]

1.08. *Amendment of Section 4.05.* Section 4.05 is hereby amended and restated as follows:

SECTION 4.05. [INTENTIONALLY OMITTED]

1.09. *Amendment of Section 4.06.* Section 4.06 is hereby amended and restated as follows:

SECTION 4.06. [INTENTIONALLY OMITTED]

1.10. *Amendment of Section 4.07.* Section 4.07 is hereby amended and restated as follows:

SECTION 4.07. [INTENTIONALLY OMITTED]

1.11. *Amendment of Section 4.08.* Section 4.08 is hereby amended and restated as follows:

SECTION 4.08. [INTENTIONALLY OMITTED]

1.12. *Amendment of Section 4.09.* Section 4.09 is hereby amended and restated as follows:

SECTION 4.09. [INTENTIONALLY OMITTED]

1.13. *Amendment of Section 4.10.* Section 4.10 is hereby amended and restated as follows:

SECTION 4.10. [INTENTIONALLY OMITTED]

1.14. *Amendment of Section 4.11.* Section 4.11 is hereby amended and restated as follows:

SECTION 4.11. [INTENTIONALLY OMITTED]

1.15. *Amendment of Section 4.13.* Section 4.13 is hereby amended and restated as follows:

SECTION 4.13. [INTENTIONALLY OMITTED]

1.16. *Amendment of Section 4.14.* Section 4.14 is hereby amended and restated as follows:

SECTION 4.14. [INTENTIONALLY OMITTED]

1.17. *Amendment of Section 4.15.* Section 4.15 is hereby amended and restated as follows:

Section 4.15. Formation of IDSs; Ratio of Common Stock to Securities. Effective upon consummation of the transactions contemplated by that certain Agreement and Plan of Merger dated as of September 18, 2008, by and among KPLT Holdings, Inc., KPLT Mergerco, Inc., and the Company, initially filed with the SEC on September 22, 2008, as an exhibit to the Company's Form 8-K, the IDSs shall, without further action on the part of the holders, be irrevocably separated.

1.18. *Amendment of Section 5.01.* Section 5.01 is hereby amended and restated as follows:

SECTION 5.01. [INTENTIONALLY OMITTED]

1.19. *Amendment of Section 6.01.* Section 6.01 is hereby amended by replacing the text in clauses (3), (4), (6), (9) and (10), in each case, with the text "[INTENTIONALLY OMITTED]".

1.20. *Amendment of Section 8.02.* Section 8.02 is hereby amended and restated as follows:

SECTION 8.02. Conditions to Defeasance. The Company may exercise its legal defeasance option or its covenant defeasance option only if:

(1) the Company irrevocably deposits in trust with the Trustee money or U.S. Government Obligations for the payment of principal, premium (if any) and interest on the Securities to maturity or redemption, as the case may be;

(2) the Company delivers to the Trustee a certificate from a nationally recognized firm of independent accountants expressing their opinion that the payments of principal and interest when due and without reinvestment on the deposited U.S. Government Obligations plus any deposited money without investment will provide cash at such times and in such amounts as will be sufficient to pay principal and interest when due on all the Securities to maturity or redemption, as the case may be; and

(3) the Company delivers to the Trustee an Officers' Certificate and an Opinion of Counsel (which Opinion of Counsel may be subject to customary assumptions and exclusions), each stating that all conditions precedent to the defeasance and discharge of the Securities as contemplated by this Article 8 have been complied with.

1.21. *Amendment of Notes.*

(a) The final paragraph of Section 1 of the Notes is hereby amended and restated as follows:

As provided in Section 2.15 of the Indenture, the Company may irrevocably extend the maturity date of any Securities for two additional successive five-year terms, to December 10, 2018 and December 10, 2023, respectively, if the following conditions are satisfied as of the date the Company delivers the Officer' s Certificate required by such Section 2.15:

(1) during the twelve month period ending on the last day of the fiscal quarter ending at least 45 days prior to the date such Officer' s Certificate is furnished to the Trustee, the ratio of Net Debt to Adjusted EBITDA is less than 5.00 to 1.00;

(2) no Event of Default (including certain events of bankruptcy, insolvency or reorganization of the Company or a Significant Subsidiary) has occurred and is continuing with respect to the Securities;

(3) no Event of Default has occurred and is continuing with respect to any other Indebtedness of the Company, or could occur as a result of such extension, including under any Designated Senior Indebtedness; and

(4) there is no interest due but unpaid on the Securities or any other Indebtedness of the Company, other than trade payables in an immaterial amount.

(b) The final two sentences in the second paragraph of Section 4 of the Notes are hereby deleted.

(c) Section 8 of the Notes is hereby amended and restated as follows:

8. [INTENTIONALLY OMITTED]

(d) the first paragraph of Section 15 of the Notes is hereby deleted.

ARTICLE 2  
THE TRUSTEE

2.01. *Privileges and Immunities of Trustee.* The Trustee accepts the amendment of the Indenture and the Notes effected by this Supplemental Indenture but only upon the terms and conditions set forth in the Indenture, including the terms and provisions defining and limiting the liabilities and responsibilities of the Trustee, which terms and provisions shall in like manner define and limit its liabilities and responsibilities in the performance of the trust created by the Indenture as hereby amended. The Trustee shall not be responsible for the adequacy, validity or sufficiency of this Supplemental Indenture, for the due execution thereof by the Company and the Guarantors or for the recitals or statements contained herein, which are the Company's and the Guarantors' responsibilities.

ARTICLE 3  
MISCELLANEOUS PROVISIONS

3.01. *Defined Terms.* As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.

3.02. *Governing Law.* THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. THE TRUSTEE, THE COMPANY, EACH SUBSIDIARY GUARANTOR, ANY OTHER OBLIGOR IN RESPECT OF THE NOTES AND (BY THEIR ACCEPTANCE OF THE NOTES) THE HOLDERS, AGREE TO SUBMIT TO THE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT LOCATED IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SUPPLEMENTAL INDENTURE OR THE NOTES.

3.03. *Ratification of Indenture; Supplemental Indentures Part of Indenture.* Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture will take effect immediately upon execution by the parties hereto, however, the terms hereof will not become operative until the Operative Date. On the Operative Date this Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby. The Trustee makes no representation or warranty as to the validity or sufficiency of this Supplemental Indenture.

3.04. *Counterparts*. The parties hereto may sign one or more copies of this Supplemental Indenture in counterparts, all of which together shall constitute one and the same agreement.

3.05. *Headings*. The section headings herein are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

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

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

CENTERPLATE, INC.  
f/k/a Volume Services America Holdings, Inc

By: /s/ Kevin F. McNamara  
Name: Kevin F. McNamara  
Title: Executive Vice President  
& Chief Financial Officer

VOLUME SERVICES AMERICA, INC., as  
Guarantor

By: /s/ Kevin F. McNamara  
Name: Kevin F. McNamara  
Title: Executive Vice President  
& Chief Financial Officer

VOLUME SERVICES, INC., as  
Guarantor

By: /s/ Kevin F. McNamara  
Name: Kevin F. McNamara  
Title: Executive Vice President  
& Chief Financial Officer

SERVICE AMERICA CORPORATION, as  
Guarantor

By: /s/ Kevin F. McNamara  
Name: Kevin F. McNamara  
Title: Executive Vice President  
& Chief Financial Officer

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SERVICE AMERICA CONCESSIONS  
CORPORATION, as Guarantor

By: /s/ Kevin F. McNamara

Name: Kevin F. McNamara

Title: Executive Vice President  
& Chief Financial Officer

SERVICE AMERICA OF TEXAS, INC.,  
as Guarantor

By: /s/ Kevin F. McNamara

Name: Kevin F. McNamara

Title: Executive Vice President  
& Chief Financial Officer

CENTERPLATE OF KANSAS, INC.,  
as Guarantor

By: /s/ Kevin F. McNamara

Name: Kevin F. McNamara

Title: Executive Vice President  
& Chief Financial Officer

THE BANK OF NEW YORK MELLON, as  
Trustee

By: /s/ Vanessa Mack

\_\_\_\_\_  
Name: Vanessa Mack

Title: Vice President

**CENTERPLATE, INC. ANNOUNCES SUCCESSFUL TENDER OFFER AND  
EXECUTION OF SUPPLEMENTAL INDENTURE**

**Extends Expiration Date Of Tender Offer For Its 13.5% Senior Subordinated Notes Due 2013**

STAMFORD, Conn., January 23, 2009 – Centerplate, Inc. (AMEX: CVP; TSX: CVP.un), announced today that it has, as of 5:00 p.m., New York City time, on January 23, 2009, received the requisite consents from the registered holders of its 13.5% Senior Subordinated Notes due 2013 to execute the supplemental indenture to the indenture governing the notes. Under the terms of the supplemental indenture, the proposed amendments to the indenture will not become operative unless and until Centerplate purchases validly tendered notes pursuant to the related cash tender offer to purchase up to 70% of the notes (the “Offer”). To date, holders of \$72,231,768 of the outstanding principal amount of the notes, which represents approximately 60.4% of the \$119,596,334.10 outstanding principal amount of the notes, have tendered their notes and delivered consents. As a result of the execution of the supplemental indenture, tendered notes and delivered consents may no longer be withdrawn or revoked.

Centerplate has also announced that, in order to allow additional note holders to tender their outstanding notes, it has extended the expiration date of the Offer from 5:00 p.m. New York City time, on January 23, 2009, to 5:00 p.m. New York City time, on January 26, 2009, unless otherwise extended by Centerplate.

The obligation of Centerplate to accept for payment and purchase the notes in the Offer, is conditioned upon, among other things, the consummation of the proposed merger of Centerplate with an affiliate of Kohlberg & Company, L.L.C., as described in more detail in the Offer to Purchase and Consent Solicitation Statement dated December 23, 2008. If all conditions to the Offer and consent solicitation are satisfied, holders of notes who validly tendered their notes pursuant to the Offer and validly delivered their consents pursuant to the consent solicitation and did not validly withdraw their notes or revoke their consents will receive the offer consideration, equal to \$2.49 per note accepted for payment, plus accrued and unpaid interest including any deferred interest. If the percentage of outstanding notes tendered pursuant to the Offer is greater than 70%, Centerplate will accept for payment and purchase up to 70% of the tendered notes on a pro rata basis.

**This announcement is not an offer to purchase, a solicitation of an offer to sell or a solicitation of consents with respect to any securities. The full terms of the Offer and consent solicitation are set forth in the Offer to Purchase and Consent Solicitation Statement.**

UBS Investment Bank is the Dealer Manager and Solicitation Agent for the Offer and consent solicitation. Questions regarding the Offer and consent solicitation should be directed to UBS at 888-719-4210 or 203-719-4210.

Requests for documents should be directed to MacKenzie Partners, Inc., the Information Agent for the Offer and consent solicitation, at 800-322-2885 or 212-929-5500.

**About Centerplate**

Centerplate, with its principal executive office in Stamford, CT, is a leading provider of food and related services including concessions, catering and merchandise services in more than 130 sports facilities, convention centers and other entertainment venues throughout the United States and Canada. Visit the company online at [www.centerplate.com](http://www.centerplate.com).

**Forward-Looking Statements**

This news release includes forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act. These statements may involve risks and uncertainties that could cause actual results to differ materially from those described in such statements. Although Centerplate believes that the expectations reflected in these forward-looking statements are reasonable, the company can give no assurance that these expectations will prove to have been correct or that they will occur. Important factors beyond Centerplate’s control, including general economic conditions, the outcome of the company’s exploration of alternatives, consumer spending levels, changing trends in our business and competitive environment, the company’s borrowing capacity and the provisions of the credit agreement, the provisions of the indenture, adverse weather conditions and other factors, as well as the risks identified in our most recent annual report on Form 10-K and other filings with the Securities and Exchange Commission could cause actual results to differ materially from Centerplate’s expectations. Centerplate undertakes no obligation to update or review any forward-looking statement, whether as a result of new information, future developments or otherwise.

**Contact Information**

Gael Doar  
Director of Communications  
203-975-5941  
[gael.doar@centerplate.com](mailto:gael.doar@centerplate.com)

