

# SECURITIES AND EXCHANGE COMMISSION

## FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

Filing Date: **2005-05-06** | Period of Report: **2005-03-31**

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### FILER

#### PW EAGLE INC

CIK: **852426** | IRS No.: **411642846** | State of Incorporation: **MN** | Fiscal Year End: **1231**  
Type: **10-Q** | Act: **34** | File No.: **000-18050** | Film No.: **05808778**  
SIC: **3080** Miscellaneous plastics products

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SUITE 2880  
MINNEAPOLIS MN 55402  
6123050339

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

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**FORM  
10-Q**

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☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2005

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number 0-18050

\_\_\_\_\_  
**PW  
EAGLE,  
INC.**

(Exact name of registrant as  
specified in its Charter)

\_\_\_\_\_

**1550 Valley River Drive**  
**Eugene, Oregon 97401**  
(Address of principal executive offices)

**Registrant's telephone number, including area code: (541) 343-0200**

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

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The number of shares of the registrant's Common Stock, \$.01 par value per share, outstanding as of May 2, 2005 was:

Common Stock	7,517,009
Class B Common Stock	595,508

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PW EAGLE, INC.

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**PART I. FINANCIAL INFORMATION**

**ITEM 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

**PW EAGLE, INC.**

Condensed Consolidated Statement of Operations - Three Months Ended March 31, 2005 and 2004 (Unaudited)

(in thousands, except per share amounts)	Three months ended March 31,	
	2005	2004
Net sales	\$142,640	\$106,391
Cost of goods sold	119,501	96,065
Gross profit	23,139	10,326
Operating expenses:		
Freight expense	8,190	6,963
Selling expenses	3,980	3,269
General and administrative expenses	3,538	2,420
Restructuring and related costs	—	658
Other (income) expense, net	(555 )	(26 )
	15,153	13,284
Operating income (loss)	7,986	(2,958 )
Interest expense	3,769	3,541

Income (loss) before income taxes, minority interest and equity in undistributed earnings of unconsolidated affiliate	4,217	(6,499 )
Income tax expense (benefit)	1,615	(2,489 )
Minority interest in loss of USPoly Company	94	–
Equity in undistributed earnings of unconsolidated affiliate, net of tax	–	135
Net income (loss)	\$2,696	\$(3,875 )
Net income (loss) per share:		
Basic	\$0.35	\$(0.56 )
Diluted	\$0.27	\$(0.56 )
Weighted average number of common shares outstanding:		
Basic	7,725	6,892
Diluted	10,064	6,892

The accompanying notes are an integral part of the unaudited condensed consolidated financial statements.



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**PW EAGLE, INC.**

Condensed Consolidated Balance Sheet - March 31, 2005 and December 31, 2004 (Unaudited)

(in thousands, except share and per share amounts)	<u>March 31, 2005</u>	<u>December 31, 2004</u>
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 2,493	\$ 986
Accounts receivable, net	69,277	48,660
Inventories	77,230	63,680
Deferred income taxes	1,833	1,833
Other current assets	1,600	1,306
Total current assets	152,433	116,465
Property and equipment, net	60,613	63,370
Goodwill	3,651	3,651
Deferred tax asset	10,699	12,526
Intangible assets	4,737	4,975
Other assets	9,886	9,789
Total assets	\$ 242,019	\$ 210,776

## LIABILITIES AND STOCKHOLDERS' EQUITY

### Current liabilities:

Borrowings under revolving credit facilities	\$ 81,399	\$ 82,017
Current maturities of long-term debt and capital leases	1,690	1,692
Accounts payable	63,897	31,514
Book overdraft	1,286	1,877
Accrued liabilities	14,408	16,845
Total current liabilities	162,680	133,945

### Long-term debt, less current maturities

	6,882	7,255
Capital lease obligations, less current maturities	19,630	19,670

### Senior subordinated debt

	28,297	27,788
Other long-term liabilities	9,070	9,505

Total liabilities	\$ 226,559	\$ 198,163
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Commitments and contingencies		
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### Stockholders' equity:

Stock warrants	5,533	6,956
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Common stock & class B common stock	81	75
Additional paid-in capital	34,881	33,271
Unearned compensation	(490 )	(544 )
Notes receivable from officers on common stock purchases	(78 )	(78 )
Accumulated other comprehensive income	349	445
Accumulated deficit	(24,816 )	(27,512 )
Total stockholders' equity	15,460	12,613
Total liabilities and stockholders' equity	\$ 242,019	\$ 210,776

The accompanying notes are an integral part of the unaudited condensed consolidated financial statements.

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**PW EAGLE, INC.**

Condensed Consolidated Statement of Cash Flows - Three Months Ended March 31, 2005 and 2004 (Unaudited)

(in thousands)	Three months ended March 31,	
	2005	2004
Cash flows from operating activities:		
Net income (loss)	\$2,696	\$(3,875 )
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
(Gain) loss on disposal of long-lived assets	(557 )	10
Depreciation and amortization	3,267	2,427
Royalty accretion	150	174
Warrant fair value adjustment	17	—
Amortization of debt issue costs, discounts and premiums	289	660
Receivable provisions	189	792
Equity in undistributed earnings of an affiliate	—	(219 )
Deferred income taxes	1,637	(2,273 )
Issuance of subordinated debt for interest payment	439	356
Non-cash minority interest	(94 )	—
Non-cash restructuring charge	—	441

Non-cash compensation	51	26
Changes in operating assets and liabilities	(5,157 )	(4,998 )
Net cash provided by (used in) operating activities	2,927	(6,479 )
Cash flows from investing activities:		
Purchases of property and equipment	(570 )	(381 )
Purchase of additional equity interest in an unconsolidated affiliate	–	(1,550 )
Proceeds from disposal of long-lived assets	877	2,342
Net cash provided by investing activities	307	411
Cash flows from financing activities:		
Change in cash overdraft	(591 )	(3,520 )
Borrowings under revolving credit facility	129,268	109,164
Payments under revolving credit facility	(129,886)	(97,557)
Proceeds from sale-leaseback transactions	–	3,555
Payments on capital lease obligation	(47 )	(43 )
Proceeds from long-term debt	–	1,300
Repayment of long-term debt	(373 )	(5,984 )

Issuance of common stock	–	9
Common stock repurchase	–	(30 )
Payment of debt issuance/financing costs	(98 )	(925 )
Proceeds from stock subscription for USPoly	–	422
Net cash provided by (used in) financing activities	(1,727 )	6,391
Net change in cash and cash equivalents	1,507	323
Cash and cash equivalents, beginning of period	986	431
Cash and cash equivalents, end of period	\$2,493	\$754

The accompanying notes are an integral part of the unaudited condensed consolidated financial statements.

**PW EAGLE, INC.****Notes to Condensed Consolidated Financial Statements (Unaudited)****1. Presentation**

In the opinion of management, the accompanying unaudited condensed consolidated financial statements contain all adjustments (consisting of only normal recurring adjustments) necessary to state fairly the financial position of PW Eagle, Inc. (the "Company") at March 31, 2005 and the results of its operations and cash flows for the three month periods ended March 31, 2005 and 2004. Certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America have been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission. Although the Company's management believes that the disclosures are adequate to make the information presented not misleading, it is suggested that these condensed consolidated financial statements be read in conjunction with the financial statements of the Company included with its Annual Report on Form 10-K for the year ended December 31, 2004.

Certain reclassifications were made to the prior period financial statements to conform to the March 31, 2005 presentation. Such reclassifications have no effect on net income or stockholders' equity as previously reported.

**2. Other Financial Statement Data**

The following provides additional information concerning inventory (in thousands):

	<u>March 31, 2005</u>	<u>December 31, 2004</u>
Raw materials	\$ 14,365	\$ 13,910
Finished goods	62,865	49,770
	<u>\$ 77,230</u>	<u>\$ 63,680</u>

The following provides supplemental disclosure of significant non-cash investing and financing activities (in thousands):

	<u>March 31, 2005</u>	<u>March 31, 2004</u>
Issuance of warrant related to sale-leaseback transaction	\$ —	\$ 62
Cancellation of restricted stock	—	167
Modification of stock awards	—	314

**3. Acquisition of Uponor Aldyl Company**

On September 27, 2004, USPoly acquired the business of Uponor Aldyl Company, Inc. (UAC) from Uponor Corporation, a Finnish company (the UAC Acquisition). UAC is a leading extruder of polyethylene (PE) piping systems for natural gas with annual sales of \$41 million in 2003. The business has facilities in Tulsa and Shawnee, Oklahoma. UAC' s business operations were combined with those of USPoly and the combined organization, re-named USPoly Company (USPoly) on September 27, 2004, is operated from UAC' s former headquarters in Shawnee, Oklahoma.

The final purchase price for UAC was \$18.6 million (including direct transaction costs of \$1.0 million), composed of \$13.9 million of cash, \$2.1 million in the form of a note to Uponor Corporation, and \$2.6 million which was subsequently paid to Uponor Corporation on March 11, 2004. In addition, USPoly incurred \$0.6 million of deferred financing costs not included in the purchase price allocation below. Concurrent with this transaction, USPoly entered into a capital lease agreement for the Tulsa, Oklahoma manufacturing facility for \$1.5 million.

The UAC Acquisition has been accounted for as a purchase business combination. The purchase price has been allocated to the assets acquired and liabilities assumed based on their estimated fair values as follows (in millions):

Current Assets	\$13.4
Property, plant and equipment	9.0
Intangible assets	2.5
Current liabilities	(6.3)
	<u>\$18.6</u>

Acquired intangible assets consist of technology and patents.

Proforma information has not been included due to the immaterial impact of the UAC Acquisition in relation to the consolidated results of operations of PW Eagle.



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The acquisition was financed with a draw under USPoly' s new Senior Credit Facility, additional subordinated debt and seller financing.

### 4. Financing Arrangements

Current and long-term obligations at March 31, 2005 and December 31, 2004 consisted of the following (in thousands):

	March 31, 2005	December 31, 2004
Borrowings under revolving credit facilities		
PW Eagle	\$ 70,929	\$ 76,323
USPoly	10,470	5,694
Total borrowings under revolving credit facilities	\$ 81,399	\$ 82,017
Long-term debt		
PW Eagle subordinated notes	\$ 23,605	\$ 23,116
PW Eagle capital lease obligations	16,459	16,492
USPoly seller' s note	2,125	2,125
USPoly senior term notes	6,248	6,622
USPoly senior subordinated note	4,692	4,672
USPoly capital lease obligations	3,370	3,378
Total current and long-term obligations	56,499	56,405
Less current maturities and amounts reclassified based on refinancing	(1,690 )	(1,692 )

Total long-term obligations	\$ 54,809	\$ 54,713
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PW Eagle and USPoly each have separate financing arrangements with each entity responsible for its own obligations without any guarantees or cross defaults.

Under current financing agreements, the Company is required to comply with certain restrictive financial ratios and covenants. Maintenance of these ratios and covenants is of particular concern given the uncertain economic climate in the United States and price stability of polyvinylchloride (PVC) pipe and PVC resin.

At December 31, 2004, USPoly was not in compliance with certain financial covenants of its Senior Credit Facility and Subordinated Debt Agreement. On March 10, 2005, the lenders waived all covenant violations and amended their Agreements such that we believe USPoly will be in compliance with the covenants in the future. In addition, the maximum borrowing under the USPoly Senior Credit Facility was increased from \$10 million to \$15 million, and interest rates on the revolving credit facility and term notes were generally increased by 0.5%.

## 5. Comprehensive Income and Accumulated Other Comprehensive Income

Comprehensive income for the Company includes net income (loss), changes in fair market value of financial instruments designated as hedges of interest rate exposure and changes in fair market value of securities held for the non-qualified deferred compensation plans.

Comprehensive income for the three months ended March 31, 2005 and 2004 was as follows (in thousands):

	Three months ended March 31,	
	2005	2004
Net income (loss)	\$2,696	\$(3,875)
Other comprehensive income:		
Changes in fair market value of financial instrument designated as a hedge of interest rate exposure, net of taxes	101	2
Unrealized gain (loss) on available for sale securities from non-qualified deferred compensation plans, net of taxes	(197 )	26
Total comprehensive income (loss)	\$2,600	\$(3,847)

The components of accumulated other comprehensive income (loss) are as follows:

March 31,	December 31,
2005	2004

Fair value of financial instrument designated as a hedge of interest rate exposure, net of taxes	\$ 43	\$ (58 )
Unrealized gain (loss) on available for sale securities from non-qualified deferred compensation plans, net of taxes	306	503
Total accumulated other comprehensive income	\$ 349	\$ 445

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### 6. Accounting for Stock-Based Compensation

In December 2004, the FASB issued Statement of Financial Accounting Standards No. 123R, "Share-Based Payment" ("SFAS 123R"), which replaces SFAS 123 and supersedes APB Opinion No. 25, "Accounting for Stock Issued to Employees". SFAS 123R requires that the cost of all share-based payments to employees, including grants of employee stock options, be recognized in the financial statements based on their fair values. That cost will be recognized as an expense over the vesting period of the award. The pro forma disclosures previously permitted under SFAS 123 no longer will be an alternative to financial statement recognition. SFAS 123R is effective for most public companies, including PW Eagle, as of the first quarter of the Company's first fiscal year beginning after June 15, 2005.

The Company has elected to continue to account for stock-based compensation using the intrinsic value method. Accordingly, no compensation expense has been recorded for the stock option plan. Had the Company used the fair value-based method of accounting to measure compensation expense for its stock option plan and charged compensation expense against income over the vesting periods, net income and the related basic and diluted per common share amounts would have been reduced to the following pro forma amounts (in thousands except per share amounts):

	Three Months Ended	
	March 31, 2005	March 31, 2004
Net earnings, as reported	\$ 2,696	\$(3,875 )
Less total stock-based employee compensation expense under the fair value-based method, net of tax	(41 )	(86 )
Pro forma net earnings	2,655	\$(3,961 )
Basic net earnings per share		
As reported	\$ 0.35	\$(0.56 )
Pro forma	\$ 0.34	\$(0.57 )
Diluted net earnings per share		
As reported	\$ 0.27	\$(0.56 )
Pro forma	\$ 0.27	\$(0.57 )

## 7. Earnings per Common Share

Basic earnings per common share is computed by dividing net income (loss) by the weighted average number of common shares outstanding. Diluted earnings per common share assumes the exercise of stock options and warrants using the treasury stock method, if dilutive. The following tables reflect the calculation of basic and diluted earnings per share (in thousands, except per share amounts):

	Three months ended	
	March 31, 2005	March 31, 2004
Net income (loss)	\$2,696	\$(3,875 )
Weighted average shares - basic	7,725	6,892
Effect of stock warrants	1,595	—
Effect of other dilutive securities	744	—
Weighted average shares - diluted	10,064	6,892
Net loss per share - basic	\$0.35	\$(0.56 )
Net loss per share - diluted	\$0.27	\$(0.56 )

The following table summarizes outstanding securities which are excluded from the computation of diluted earnings per share because inclusion of these shares would be anti-dilutive (in thousands):

	Three months ended	
	March 31, 2005	March 31, 2004
Stock options	365	1,107
Stock warrants	571	2,425
Unvested restricted stock	—	333

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### 8. Guarantees

*Product warranties:* The Company's products are generally guaranteed against defects in material and workmanship for one year. The product warranty liability is reviewed regularly by management to insure the Company's warranty allowance is adequate based on frequency and average cost of historical warranty claims activity. Management studies trends of warranty claim activity to improve pipe quality and pipe installation techniques to minimize future claims activity.

(in thousands)

	March 31, 2005	December 31, 2004
Accrual for product warranties - beginning of year	\$ 325	\$ 450
Accruals for warranties issued during the period	9	328
Settlements made during the period	(29 )	(453 )
Accrual for product warranties - end of period / year	\$ 305	\$ 325

*Standby letters of credit:* The Company is required to maintain standby letters of credit totaling \$2.8 million. These letters of credit guarantee payment to third parties in the event the Company is unable to pay in a timely manner. Standby letters of credit reduce the funds available under the revolving credit facilities by \$2.8 million. No amounts were drawn on these letters of credit as of March 31, 2005.

### 9. Litigation

We are from time to time a party to various claims and litigation matters incidental to our normal course of business. We are not a party to any material litigation and are not aware of any threatened litigation that would have a material adverse effect on our business.

### 10. Segments of Business

The Company manufactures and distributes PVC and PE pipe and fittings used for potable water and sewage transmission, turf and agricultural irrigation, natural gas transmission, water wells, fiber optic lines, electronic and telephone lines, and commercial and industrial plumbing. The PE segment operates under the name USPoly. We distribute our products throughout the United States, including Hawaii and Alaska, with a minimal amount of shipments to certain foreign countries. While there are similarities in technology and manufacturing processes utilized between the segments, differences exist in products and customer base, with the PVC segment focused on the water, irrigation and electrical products and customers, and the PE segment focused primarily on the natural gas distribution products and customers.

The Company changed its performance measurement for segment reporting on its annual report from EBITDA, which is defined as earnings before interest, taxes, depreciation, amortization, minority interest and equity in earnings of unconsolidated affiliate, to operating income in this Form 10-Q. EBITDA is not a financial measure that is in accordance with accounting principles generally accepted in the United States of America (GAAP).

A summary of the Company's business activities reported by its two business segments follows:

3 Months Ended	
March 31,	
2005	2004

# Business Segments (in millions)

## Net Sales:

PVC products	\$123.7	\$103.3
PE products	18.9	3.1
Total net sales	\$142.6	\$106.4
Operating income		
PVC products	\$8.0	\$(2.9 )
PE products	–	(0.1 )
Total operating income (loss)	\$8.0	\$(3.0 )
Interest expense	3.8	3.5
Income (loss) before income taxes and minority interest	\$4.2	\$(6.5 )

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	March 31, 2005	December 31, 2004
Total Assets:		
PVC products	\$ 189.6	\$ 159.7
PE products	39.9	36.7
Corporate	12.5	14.3
Total assets	\$ 242.0	\$ 210.7

### 11. Stockholders' Equity Transactions

At December 31, 2004, the Company had warrants outstanding to purchase 1,940,542 shares of common stock or Class B common stock at \$0.01 per share. On January 28, 2005, certain warrant holders elected to make a cashless exercise of their warrants to purchase 597,090 shares of Class B common stock in exchange for 595,508 shares of Class B common stock. The share differential represents the effect of the cashless exercise in which, in lieu of paying the current exercise price in cash, the holder forfeits the right to receive a certain number of warrant shares having a fair market value equal to the warrant exercise price. The Class B common stock issued to the warrant holders is convertible, at the holders' option, into shares of the Company's common stock at a 1:1 ratio.

In addition, on March 11, 2005, the Company reached an agreement to issue 1,339,517 shares to the holder of a warrant with rights to purchase 1,343,452 shares of common stock. The exchange is conditioned on the effectiveness of a Registration Statement on Form S-3.

In the first quarter of 2005, USPoly issued \$0.3 million in additional stock at a price of \$1.10 per share. At December 31, 2004, PW Eagle owned approximately 75% of USPoly. Upon the completion of this transaction, the Company adjusted its investment interest in USPoly by \$0.2 million to appropriately align the Company's investment with its underlying 73% interest in USPoly. This adjustment was recorded as an increase to the Company's additional paid-in capital with a corresponding increase to the Company's Investment in USPoly account.



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**ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

**PW EAGLE, INC.**

**Consolidated Results of Operations - Comparison Between Three Months Ended March 31, 2005 and 2004**

(in millions)

	Three months ended		Increase (Decrease)		
	March 31,				
	2005	2004	\$	%	
Net sales	\$ 142.6	\$ 106.4	\$ 36.2	34.0	%
Cost of goods sold	119.5	96.1	23.4	24.3	%
Gross profit	23.1	10.3	12.8	124.3	%
Operating expenses	15.1	13.3	1.8	13.5	%
Operating income (loss)	8.0	(3.0 )	11.0	-366.7	%
Interest expense	3.8	3.5	0.3	8.6	%
Income (loss) before income taxes, minority interest and equity in undistributed earnings of unconsolidated affiliate	4.2	(6.5 )	10.7	-164.6	%
Income tax (benefit) expense	1.6	(2.5 )	4.1	-164.0	%
Minority interest in loss of USPoly Company	0.1	—	0.1	n/a	
Equity in undistributed earnings of unconsolidated affiliate, net of tax	—	0.1	(0.1 )	-100.0	%
Net income (loss)	\$ 2.7	\$ (3.9 )	\$ 6.6	-169.2	%

In the first quarter of 2005, margins in our PVC business segment, which represents 87% of our sales, were significantly better than the first quarter of 2004. While our volume declined somewhat from the very high levels of the 2004 first quarter, the 2005 first quarter levels reflected normal seasonality and, when combined with the improved margins, resulted in operating profit improvement of \$11 million, compared to the same period last year. The profitable operations and effects of the refinancing completed in the fourth quarter of 2004 continued to improve our financial position.

Net sales for the first quarter of 2005 were \$142.6 million, up \$36.2 million, or 34% from \$106.4 million in the same quarter last year. Approximately 41% of the increase in sales is due to the inclusion in 2005 of results from the UAC acquisition by USPoly on September 27, 2004. While overall volume of pounds sold is down by 6% in the first quarter of 2005 from the first quarter of 2004, average selling prices have risen due to the increasing cost of resin.

Gross profit as a percent of net sales increased to 16.2% in 2005 as compared to 9.7% in 2004, as selling prices increased faster than raw material costs, representing a continuing improvement from the turnaround in 2004.

Operating expenses were \$15.1 million, an increase of \$1.8 million, or 13.5% from \$13.3 million in 2004. The increase in operating expenses is the result of increased costs of \$2.0 million at USPoly due primarily to the UAC acquisition, and higher freight costs due to higher transportation rates. These increased costs were offset in part by a gain on the sale of land of \$0.5 million and the fact that there are no restructuring costs in 2005 compared to \$0.7 million in 2004.

Interest expense was \$3.8 million in the first quarter of 2005, compared to \$3.5 million in 2004, or an increase of \$0.3 million. This increase resulted from higher debt levels at USPoly in the first quarter of 2005 compared to the first quarter of 2004, in which additional debt was incurred to finance the UAC acquisition, offset in part by the general reduction of interest rates for PW Eagle's debt following the refinance that was completed in October of 2004. The refinance lowered outstanding subordinated debt, and replaced it with lower cost revolving debt.

The income tax provisions (benefit) for the quarters ending March 31, 2005 and 2004 were calculated based on management's then-current estimates of the annual effective rate for the year, with an estimated effective tax rate of 38.3% for both periods presented.

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**Results of Operations by Segment – Comparison Between Three Months Ended March 31, 2005 and 2004**

(in millions)

	Three months ended		Increase (Decrease)		
	March 31,				
	2005	2004	\$	%	
Net sales:					
PVC products	\$123.7	\$103.3	\$20.4	19.7	%
PE products	18.9	3.1	15.8	509.7	%
Consolidated net sales	\$142.6	\$106.4	\$36.2	34.0	%
Operating income (loss):					
PVC products	\$8.0	\$(2.9 )	\$10.9	-375.9	%
% of sales	6.5 %	-2.8 %			
PE products	–	(0.1 )	0.1	-100.0	%
% of sales	0.0 %	-3.2 %			
Consolidated operating income	8.0	(3.0 )	11.0	-366.7	%
% of sales	5.6 %	-2.8 %			
Interest expense	3.8	3.5	0.3	8.6	%

Income (loss) before income taxes, minority interest and equity in undistributed earnings of unconsolidated affiliate	\$4.2	\$(6.5 )	\$10.7	164.6	%
	_____	_____	_____	_____	_____

## PVC Products

PVC sales increased 19.7% from \$103.3 million in the first quarter of 2004 to \$123.7 million in 2005. While volume shipped declined by 13% (2004 first quarter shipments were higher than normal), this was more than offset by rising selling prices. The average price per pound sold increased from \$0.475 in the first quarter of 2004 to \$0.657 in 2005. In addition, the spread of selling prices over raw material costs continued to increase in the first quarter of 2005. This higher spread resulted in better gross margins. Operating expenses remained constant in dollar amount in the first quarter of 2005 compared to the first quarter of 2004. Increasing freight and other expenses were offset by not incurring any restructuring charges in 2005, and by a gain on sale of land of \$0.5 million in 2005. The result was an increase in operating income of \$10.9 million, from a loss of \$(2.9) million in the first quarter of 2004 to a profit of \$8.0 million in the first quarter of 2005, or 6.5% of sales.

## PE Products

PE sales increased \$15.8 million, or 509.7%, from \$3.1 million in the first quarter of 2004 to \$18.9 million in 2005. Of this increase, the UAC business acquired in September 2004 accounted for \$14.8 million, with the additional increase coming from the previous PE business. Operating expenses increased by \$2.0 million due to the UAC acquisition and higher freight costs. The result was a break-even first quarter of 2005 with no operating income, compared to a small loss in the first quarter of 2004.

## Changes in Financial Condition and Liquidity

Total assets of \$242.2 million at March 31, 2005 represented a \$31.4 million increase from the \$210.8 million at December 31, 2004. This increase was primarily in current assets, with the increase in accounts receivable and inventory amounting to \$34.2 million. Total capitalization at March 31, 2005 was \$153.5 million, consisting of \$137.9 million of debt and \$15.6 million of equity, with equity increasing by \$3.0 million from December 31, 2004. The increase in accounts receivable is due to increased sales volume in the first quarter of 2005 compared to the fourth quarter of 2004, and the increase in inventory is due to anticipated sales increases during the second quarter of 2005.

We had negative working capital of \$(10.2) million at March 31, 2005, which is an improvement of \$7.3 million from the negative working capital of \$(17.5) million at December 31, 2004. This improvement is the result of our return to profitability in the first quarter of 2005, and the positive cash flow from operations of \$2.9 million for the quarter ending March 31, 2005. The portion of our revolving credit facility collateralized by fixed assets was \$20.3 million at March 31, 2005. Had this portion of current debt been converted to long-term loans consistent with the long-term collateral, our working capital would be positive by \$10.1 million at March 31, 2005.

On March 10, 2005, USPoly amended its Senior Credit Facility. As a result of this amendment, the maximum borrowing under the revolving portion of the credit facility was increased to \$15 million from \$10 million, and interest rates were generally increased by 0.5%.

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In addition to the improvement in working capital, we had additional availability on our revolving credit facilities of \$28.6 million at March 31, 2005. Management believes that, for the foreseeable future, the Company can fund requirements for working capital, capital expenditures and other obligations from cash generated from operations and borrowing from existing credit facilities.

Cash provided by operating activities was \$2.9 million in the first quarter of 2005, compared to \$(6.5) million of cash used in operating activities for the first quarter of 2004. The primary component in changes in operating activities was the \$6.6 million change in net income.

Cash provided from investing activities provided \$0.3 million compared to \$0.4 million in the first quarter of 2005 and 2004, respectively. In the first quarter of 2005, we sold an excess partial of land adjacent to our Perris facility for \$0.9 million. Investing activities in the first quarter of 2004 included the receipt of \$2.3 million in proceeds relating to the 2003 sale of the Phoenix facility and an additional \$1.6 million investment in WL Plastics.

Financing activities used \$1.7 million, primarily advances under our revolving credit facility and repayment of long-term debt. In the first quarter of 2004, financing activities provided \$6.4 million from our revolving credit facilities, a sale-leaseback transaction and new debt.

### **Issuance of Additional USPoly Stock**

In January 2004, the Company's Board of Directors approved USPoly entering into an agreement to issue additional common shares to new investors, directors, officers and employees thereby resulting in PW Eagle, Inc. no longer owning 100% of USPoly.

In the first quarter of 2005, USPoly issued \$0.3 million in additional stock at a price of \$1.10 per share. At December 31, 2004, PW Eagle owned approximately 75% of USPoly. Upon the completion of this transaction, the Company adjusted its investment interest in USPoly by \$0.2 million to appropriately align the Company's investment with its underlying 73% interest in USPoly. This adjustment was recorded as an increase to the Company's additional paid-in capital with a corresponding increase to the Company's Investment in USPoly account.

### **Future Outlook and Risks to Our Business**

INFORMATION IN THIS OUTLOOK SECTION AND OTHER STATEMENTS IN THIS FORM 10-Q ARE FORWARD-LOOKING INFORMATION - ACTUAL RESULTS MAY DIFFER

The statements contained above in Management's Discussion and Analysis of Financial Condition and Results of Operations that are not strictly historical and the statements set forth in this Outlook section are forward-looking statements made under the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. These statements reflect our expectations and beliefs as of May 6, 2005 and are based on information known to us and our assumptions as of that date. These forward-looking statements involve known and unknown business risks and risks that we cannot control. As a result, our statements may not come true and our operating results may differ materially from our stated expectations and beliefs.

Some of our current beliefs and expectations are discussed below along with risk factors that impact our business and industry.

#### *Forward-Looking Statements*

We believe the Gross Domestic Product (GDP) is closely correlated to the demand for PVC and PE pipe, and we recognize that our business is tied to economic cycles. GDP grew at an annual rate of 3.1% in the first quarter of 2005, as compared to 4.0% and 3.8% in the third and fourth quarters of 2004. Although GDP growth decreased in the first quarter of 2005, it remains at a moderate level. We believe GDP growth will remain at similar levels for the second quarter of 2005, resulting in stable demand for PVC and PE resin and pipe.

We believe that inventory levels at resin producers, pipe producers and distributors were at moderate levels at the end of the first quarter of 2005, making it likely that demand and supply of PVC and PE pipe and resin will remain in balance during the second quarter of 2005, providing moderate economic growth continues.

The production of PVC resin may be limited by the availability of chlorine and vinyl chloride monomer (VCM), major raw material components of PVC resin. Chlorine and VCM capacity could be limited due to the closure of several manufacturing plants in the past and announced for 2005-2006. Announced capacity increases are not likely to have a significant impact until 2007. This combination of industry conditions leads us to believe that PVC resin supply should not exceed demand in 2005.

Demand for PVC resin was strong in 2004 and PVC resin producers implemented price increases totaling \$0.15 per pound during the year. In light of relatively strong demand for PVC pipe, pipe producers implemented several pipe price increases in response to these resin price increases. PE resin producers implemented price increases of \$0.14 to \$0.20 per pound in 2004.

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PVC resin producers implemented increases of \$0.02 per pound in both January and March 2005, and have announced increases of \$0.01 per pound for both April and May 2005. Pipe producers have implemented and announced pipe price increases in response to these resin price increases. We believe these pipe price increases will allow us to maintain our margins.

Over time, we expect the demand for plastic pipe to grow as acceptance of plastic pipe over metal pipe continues and the overall economy continues to grow. Industry growth projections call for annual sales growth rates for PVC pipe of 3% or greater in 2005. The actual growth rate may be less than or greater than 3% based on short-term economic conditions. Our strategy has been, and continues to be, to concentrate growth initiatives in higher profit products and geographic regions.

We believe that the operational restructuring we began in the fourth quarter of 2003 and completed in the second quarter of 2004 has positioned the Company for improved future results by improving our manufacturing efficiency and reducing our selling, general and administrative costs. The refinancing we completed in 2004 will reduce our future interest charges.

### ***Risk Factors***

#### **The pipe industry and our business are heavily dependent on the price and trend of PVC resin, our main raw material.**

Our gross margin percentage is sensitive to raw material resin prices and the demand for PVC and PE pipe. Historically, when resin prices are rising or stable, our margins and sales volume have been higher. Conversely, when resin prices are falling, our sales volumes and margins have been lower. During 2004, PVC resin producers implemented PVC price increases totaling \$0.15 per pound. These increases were driven by raw material and energy cost increases, combined with strong demand for PVC resin. In response to strong demand and relatively fixed current production capacity, PVC resin producers implemented a \$0.02 per pound price increase for both January and March 2005. In addition, price increases of \$0.01 per pound in April 2005 and \$0.01 per pound in May 2005 have been announced.

Our gross margin decreases when the supply of resin and pipe is greater than demand. Conversely, our gross margins improve when resin and pipe are in short supply. In April 2001, a major producer of PVC resin filed for bankruptcy and, during the first quarter of 2002 ceased operations at two manufacturing facilities. This resulted in a reduction of approximately 1.0 billion pounds of production capacity, or 5% of the North American industry capacity. Although two PVC producers have subsequently purchased these two facilities, only one of them has announced intentions to re-start a portion of its capacity in 2005. In December, 2004, a major PVC producer announced plans to build a PVC plant with annual capacity of 1.3 billion pounds together with integrated production of chlorine and VCM, with completion expected by the end of 2006 for the first phase and by the end of 2007 for the second phase. If these capacity increases result in industry capacity exceeding demand when they begin production, it could result in decreasing prices for PVC resin. In addition, we believe the production of PVC resin may be limited by the availability of chlorine, a major raw material component.

#### **The demand for our products is directly affected by the growth and contraction of the Gross Domestic Product and economic conditions.**

Due to the commodity nature of resin, pipe and the dynamic supply and demand factors worldwide, the markets for both resin and pipe have historically been very cyclical with significant fluctuations in prices and gross margins. Generally, after a period of rising or stable prices, capacity has increased to exceed demand with a resulting decrease in prices and gross margins. Over the last ten years, there have been consolidations in both markets, particularly with respect to PVC resin manufacturers. During the same period, the capacity of PVC resin producers has increased from just over 9 billion pounds to over 18 billion pounds today. In the last 10 years published PVC resin prices have fluctuated between \$0.25 and \$0.58 per pound. Currently resin prices are at historic highs.

While we expect the demand for PVC and PE pipe to continue to increase over the long term, we also expect that the industry will continue to be subject to cyclical fluctuations and times when supply will exceed demand, driving prices and margins down. These conditions could result from a general economic slowdown, either domestically or elsewhere in the world, or capacity increases in either the resin or pipe markets. General economic conditions both in the United States and abroad will continue to have a significant impact on our prices and gross margins.

**We are dependent on suppliers of our raw materials. Our production or reputation could be seriously harmed if these suppliers were unable to timely meet our requirements on a cost effective basis.**

Our PVC and PE products contain raw materials that are procured from a variety of suppliers. The cost, quality and availability of these raw materials, chief among them PVC and PE resin, are essential to the successful production and sale of our products. There are a limited number of suppliers for some of these raw materials. Alternative sources are not always available or may not be available on terms acceptable to us. For example, there are currently only five suppliers of PVC resin and four suppliers of PE resin in North America who are capable of providing us the material in an amount that would meet our requirements on terms acceptable to us. We believe our relationships with our raw material suppliers are good and currently have long-term agreements in place with several of our key suppliers. However, if our suppliers were unable or unwilling to meet our demand for raw materials on terms acceptable to us



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and if we are unable to obtain an alternative source or if the price for an alternative source is prohibitive, our ability to maintain timely and cost-effective production of our products will be seriously harmed.

### **We have a significant amount of outstanding debt and must continue to operate our business to meet our outstanding obligations.**

At March 31, 2005, we were in full compliance with all debt covenants. PW Eagle completed a refinancing in the fourth quarter of 2004 and has new senior and subordinated debt facilities in place. On March 10, 2005, USPoly's lenders amended their Agreements such that we believe USPoly will be in compliance with the covenants in the future. In addition, the maximum borrowing under the USPoly Senior Credit Facility was increased to \$15 million.

We expect these new credit facilities to provide sufficient liquidity to operate our business and meet our obligations for the next several years. These conditions could change, however, if general economic conditions or other unforeseen events should cause a significant deterioration in our business results.

In the event of a default under our debt agreements, we would be required to either obtain a waiver from our lenders or amend our lending agreements. There is no assurance that our lenders would waive any future default or agree to any future amendments of our credit facilities and leases. If we failed to obtain a waiver or an amendment, we would be required to obtain new financing from alternative financial sources. There is no assurance that we could obtain new financing, and if we did, there is no assurance that we could obtain terms as favorable as our current credit facilities.

### **Interest rates affect our ability to finance our indebtedness and may adversely affect the demand for our products when higher rates slow the growth of our economy.**

We have \$76.8 million of variable interest rate debt at March 31, 2005. Accordingly, interest rate increases would further challenge our ability to pay the interest expense on our debt and fixed charges. In addition, an increase in interest rates could slow the growth of the economy and affect the demand for our products.

### **Other risk factors**

In addition to the risk factors discussed above, our business is also affected by the following: (i) adverse weather conditions that result in a slow down in construction and the demand for our products; (ii) competition in the resin and pipe industry that puts pressure on the price of resin and pipe; and (iii) net operating loss utilization. We have not provided any valuation allowance associated with deferred tax assets of approximately \$12.5 million at March 31, 2005. In addition, we have evaluated tax-reporting compliance relating to the past utilization of net operating loss carryforwards, and believe we have complied in all respects. A failure to meet the requirements could result in a loss or limitation of the utilization of carryforwards, which could have a material adverse effect on our financial position and results of operations in future periods.

Although the Company is highly cyclical in terms of its industry and operating profits, we believe that the Company will be profitable over its operating cycle, based on historical results and other analysis. This belief is largely based on a combination of 1) our participation as one of the PVC pipe industry leaders, 2) distribution centered on populated growth markets, 3) professional management dedicated to the PVC pipe industry, and 4) debt paydown and corresponding reduction in future financing costs. Our Company's cyclical nature and corresponding operating results are significantly influenced by the overall US future economic cycles, which, in addition to driving demand for our products, also influence the cost of the primary raw material input, PVC resin. Generally, as PVC resin costs are rising during our operating cycles, our profitability associated with product shipments increases. These factors have been considered as part of our evaluation of the need for a valuation allowance associated with deferred tax assets. We will continue to monitor the need for a valuation allowance at each balance sheet date in 2005, to ensure the conclusions reached in 2004 are sustainable. Any change in this conclusion would result in a direct reduction of our reported results from operations and could result in significant reduction of our shareholders' equity as of the date of the potential determination of the need for such a valuation allowance for financial reporting purposes.



### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

We are exposed to certain market risks on outstanding variable rate debt obligations totaling \$76.8 million at March 31, 2005. Market risk is the potential loss arising from adverse changes in market rates and prices, such as interest rates. Market risk is estimated as the potential increase in interest expense resulting from a hypothetical one-half percent increase in interest rates and would result in an annual interest expense increase of approximately \$0.4 million.

We do not enter into derivatives or other financial instruments for trading or speculative purposes. We only enter into financial instruments to manage and reduce the impact of changes in interest on our Senior Credit Facility. On November 12, 2004, the Company entered into a fixed rate swap agreement for 50% of the fixed asset collateral portion of the new Senior Credit Facility. The total notional amount of the swap contracts decreases in proportion to the reduction in the fixed asset collateral portion of the credit facility, until the fixed rate agreement terminates in November of 2007. At March 31, 2005, these contracts had a notional amount of \$10.9 million and a fair value of \$0.1 million.

## **PART II. OTHER INFORMATION**

### **ITEM 1. LEGAL PROCEEDINGS**

We are from time to time a party to various claims and litigation matters incidental to our normal course of business. We are not a party to any material litigation and are not aware of any threatened litigation that would have a material adverse effect on our business.

### **ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES**

None.

### **ITEM 3. DEFAULTS UPON SENIOR SECURITIES**

None.

### **ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS**

None.

### **ITEM 5. OTHER INFORMATION**

The description of USPoly's amendment to its Senior Credit Facility under the heading "Change in Financial Conditions and Liquidity" in Item 2 is hereby incorporated by reference.

**EXHIBIT INDEX TO FORM 10-Q**

**For the Quarter Ended March 31, 2005**

**PW EAGLE, INC.**

**ITEM 6. EXHIBITS**

<b>Number</b>	<b>Description</b>
10.1**	Amended and Restated PVC Resin Supply Agreement dated February 1, 2005.
10.2	First Amendment to Fourth Amended and Restated Loan and Security Agreement between PW Eagle, Inc. and Fleet Capital Corporation, dated March 15, 2005.
10.3	First Amendment to Senior Subordinated Note Purchase Agreement and Junior Subordinated Note Purchase Agreement between PW Eagle Inc, and Churchill Capital Partners IV, L.P., dated March 15, 2005.
10.4	First Amendment to Credit and Security Agreement and Waiver of Defaults between USPoly Company and Wells Fargo Business Credit, Inc., dated March 10, 2005.
10.5	First Amendment to Subordination Agreement between Wells Fargo Business Credit, Inc., Medallion Capital, Inc., USPoly Company, and Spell Capital Partners, dated March 10, 2005.
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification by the Chief Executive Officer pursuant to section 906 of the Sarbanes Oxley Act.*
32.2	Certification by the Chief Financial Officer pursuant to <u>section</u> 906 of the Sarbanes Oxley Act.*
* This certification accompanies this Quarterly Report on Form 10-Q pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by the Company for purposes of the Securities Exchange Act of 1934. A signed original of this written statement required by Section 906 has been provided to PW Eagle, Inc. and will be retained by PW Eagle, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.	
** Portions of this exhibit are omitted pursuant to a request for confidential treatment and were filed separately.	

## **SIGNATURES**

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 thereunto duly authorized.

### **PW EAGLE, INC.**

By /s/ Jerry A. Dukes  
Jerry A. Dukes  
Chief Executive Officer

By /s/ Scott Long  
Scott Long  
Chief Financial Officer

Dated: May 6, 2005

**AMENDED AND RESTATED PVC RESIN SUPPLY AGREEMENT**

**between**

**\*\*\*\*\***

**as Seller,**

**and**

**PW EAGLE, INC.**

**as Buyer**

**Effective as of February 1, 2005**

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## AMENDED AND RESTATED PVC RESIN SUPPLY AGREEMENT

**THIS AMENDED AND RESTATED PVC RESIN SUPPLY AGREEMENT** (this “Agreement”) effective as of the 1<sup>st</sup> day of February 2005 is between \*\*\* (hereinafter “Seller”), and PW EAGLE, INC., a Minnesota corporation (hereinafter “Buyer”). Each of Seller and Buyer is sometimes hereinafter referred to as a “party” and collectively as the “parties”.

**WHEREAS**, Seller and Buyer entered into that PVC RESIN SUPPLY AGREEMENT dated as of January 1, 2000 (the “2000 PVC Supply Agreement”), pursuant to which Buyer agreed to purchase and Seller agreed to sell certain quantities of PVC resin; and

**WHEREAS**, Seller and Buyer amended the 2000 PVC Supply Agreement by a First Amendment dated December 20, 2001, and a Second Amendment effective as of January 1, 2002; and

**WHEREAS**, Seller and Buyer wish to amend and restate the 2000 PVC supply Agreement so as to incorporate such prior amendments which continue in effect in this Agreement as well, and the amendment provisions hereby, all such amendments and restatements to be made effective as of February 1, 2005.

**NOW, THEREFORE**, in consideration of the premises and the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### ARTICLE I DEFINITIONS

**SECTION 1.1** *Definitions.* The following terms, when employed with initial capitalization, shall have the meaning set forth below:

“*Acquisition Quantity*” has the meaning assigned to it in Section 3.2.

“*Agreement*” means this Amended and Restated PVC Resin Supply Agreement, including all Exhibits.

“*Business Day*” means any calendar day that Seller’s offices are open for the transaction of business.

“*Buyer*” means PW EAGLE, INC. and its subsidiaries.

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*“Delivery Month”* has the meaning assigned to it in Section 5.2(a).

*“Delivery Point(s)”* has the meaning assigned to it in Section 6.3.

*“Expansion Quantity”*, *“5% Expansion Quantity”* and *“Excess Expansion Quantity”* each has the meaning assigned to them in Section 3.2.

*“Facility”* or *“Facilities”* means one or more of either Buyer’s PVC pipe plants or Seller’s PVC resin manufacturing plants, as the context requires and as set forth in Exhibit 3.1(a).

*“Final Price”* has the meaning assigned to it in Section 5.3.

*“Force Majeure Event”* has the meaning assigned to it in Section 11.1.

*“Initial Term”* has the meaning assigned to it in Section 4.1.

*“Invoice Price”* has the meaning assigned to it in Section 5.2 (b).

*“Month”* means a calendar month.

*“Person”* means an individual, partnership, corporation (including business trust), joint stock company, trust, unincorporated association, or a joint venture or other entity.

*“Product”* means PVC resin meeting the product specifications set forth in Exhibit A.

*“Prime”* means the rate per annum announced from time to time by Chemical Bank as its prime or reference rate in effect at its New York office.

*“Requirement”* has the meaning assigned to it in Article III.

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*“Superfund Tax”* means the assessment on the production and sale of PVC Resin imposed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as the same may be from time to time amended or reauthorized.

*“Term”* has the meaning assigned to it in Article IV.

*“Year”* or *“Yearly”* means or refers to a calendar year or calendar years.

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**ARTICLE II**  
**COMMITMENTS OF PURCHASE AND SALE**

**SECTION 2.1 *Purchase Commitment.*** Buyer agrees to purchase and receive from Seller, during the Term, the quantities of Product as hereinafter stated in Article III at the Competitive Contract Price as hereinafter stated in Article V.

**SECTION 2.2 *Sales Commitment.*** Seller agrees to sell and deliver to Buyer, during the Term, the quantities of Product as hereinafter stated in Article III at the Competitive Contract Price as hereinafter stated in Article V.

**ARTICLE III**  
**QUANTITY**

**SECTION 3.1 *Requirements.*** Subject to the further provisions of this Agreement,

(a) During the Year 2005 and for the remainder of the Term, Buyer shall purchase and receive from Seller and Seller shall sell and deliver to Buyer \*\*\* percent (\*\*\*) of Buyer's requirements for PVC resin at its Facilities whose total Requirements for PVC resin will equal \*\*\* pounds as further set forth in Exhibit 3.1(a).

**SECTION 3.2 *Seller's Obligation to Supply Any Increase in Requirements.***

(a) Subject to the limitations set forth in Section 4.3, beginning in Year 2005, Buyer's Requirements under this Agreement shall include, subject to the further provisions of this Section 3.2, all or any additional quantities of Product which Buyer may require resulting from (i) expansion of Buyer's Facilities, being supplied by Seller under this Agreement, by installation of new production facilities or processes, (ii) modernization debottlenecking, installation or implementation of process improvements, or other similar modifications to Buyer's Facilities being supplied by Seller under this Agreement (such additional quantities of Product described by the preceding clauses (i) and (ii) collectively, the "Expansion Quantity"), and (iii) Buyer's acquisition, directly or indirectly from any other Person of equipment, plants, business, properties or other assets for the production of PVC pipe, the operation of which requires Product (the "Acquisition Quantity").

(b) After 2005 Seller is obligated to supply additional Expansion Quantities up to five percent (5%) greater than the prior Year's Requirement ("5% Expansion Quantity"). If in any Year Buyer's Expansion Quantity is less than the 5% Expansion Quantity, the difference shall not carry forward into subsequent Years. Buyer shall notify Seller of actions to be taken by Buyer that will require Expansion Quantity. Seller shall have the option, but not the obligation, to supply Expansion Quantity in excess of the 5% Expansion Quantity ("Excess Expansion Quantity"). Buyer shall use its best efforts to advise Seller of its Expansion Quantity and Excess Expansion Quantity at least twelve (12) months prior to the need for Expansion Quantity or Excess Expansion Quantity as soon as Buyer is permitted to do so without violating contracts with third parties or its legal obligations. Seller will advise Buyer within sixty (60) days of

receipt of such notice of whether or not it will supply the Excess Expansion Quantity. If Seller does not elect to supply the Excess Expansion Quantity, the parties shall meet to attempt to agree on a mutually acceptable method for Buyer to obtain the Excess Expansion Quantity. In the event that the parties are unable to agree on such a method, Buyer shall be free for a period from the commencement of its need for Excess Expansion Quantity to the end of the second full Year thereafter, to purchase Product from a third party in quantities that are commercially reasonable up to an amount so that Buyer's Requirement is not below its Requirement for the Year preceding the commencement of its need for Excess Expansion Quantity. Buyer shall have the right to accomplish the purchase of Product from a third party by removing from this Agreement one or more of its Facilities being supplied by Seller under this Agreement. In that event, the parties shall meet to mutually agree on which Facility or Facilities should be removed from this Agreement, taking into consideration the impact on both the Seller and the Buyer. At the end of the period that Buyer is permitted to purchase such Product from a third party, the amount of Product being so purchased shall become Expansion Quantity subject again to the terms of this Agreement.

(c) Buyer shall notify Seller of any transaction that will result in Acquisition Quantity as soon as Buyer is permitted to do so without violating contracts with third parties or its legal obligations. In the event that Buyer can terminate any contracts with third parties to supply the Acquisition Quantity without a breach or other cost or expense, Seller shall have the right, but not the obligation, to elect to supply the Acquisition Quantity under this Agreement: provided, however, in no event will the terms under which Buyer is obligated to purchase the Acquisition Quantity from Seller be any less favorable than those under which the third party is supplying the Acquisition Quantity. Seller shall have sixty (60) days after receipt of such notice to elect to supply such Acquisition Quantity under the terms set forth above. If Seller does not elect to supply such Acquisition Quantity or if Seller does not have the right to supply such Acquisition Quantity, Buyer shall be free to contract with a third party to supply the Acquisition Quantity for a period from commencement of its need for Acquisition Quantity to the end of the second full Year thereafter, at which time, the Acquisition Quantity shall again become Acquisition Quantity subject to the terms of this Agreement.

## **ARTICLE IV**

### **TERM**

#### **SECTION 4.1 \*\*\***

#### **SECTION 4.2 \*\*\***

**SECTION 4.3** *Phase Down of Supply*. Notwithstanding anything to the contrary in this Agreement, should Seller not exercise its option to extend this Agreement, in the Year following the termination of this Agreement Seller would supply Buyer with 50% of the quantity supplied under this Agreement in the Year following the final Year of this Agreement under the terms and conditions of this Agreement.

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**ARTICLE V**  
**PRICE**

**SECTION 5.1 \*\*\***

**SECTION 5.2 \*\*\***

**SECTION 5.3 \*\*\***

**SECTION 5.4 \*\*\***

**SECTION 5.5 \*\*\***

**SECTION 5.6 *Invoice Disputes.***

(a) Subject to the further provisions of this Section 5.5, Buyer shall pay invoices within the applicable time periods set forth in this Agreement without deduction, set-off or counterclaim.

(b) Any good faith dispute concerning the price of Product invoiced to Buyer shall be resolved in accordance with the provisions of Sections 5.1 through 5.4 of this Agreement.

(c) In case of any other good faith dispute (excluding price) concerning an invoice under this Agreement, Buyer shall pay, by the payment due date, its good faith estimate of the amount due and the parties shall meet within ten (10) days of the payment due date and diligently pursue resolution of the disputed amount of the invoice.

(d) Any payments not timely made by Buyer pursuant to the provisions of this Agreement (other than payments being disputed in good faith by Buyer as aforesaid) will accrue interest at a rate per annum of Prime plus two (2) percent (but in no event more than the maximum rate permitted by applicable law) from the date such payment shall have become due up to the date of actual payment thereof, and Buyer shall pay such interest to Seller within ten (10) days of Buyer's receipt of Seller's invoice for such charges.

**ARTICLE VI**  
**DELIVERY**

**SECTION 6.1 *Method of Delivery.*** Product shall be delivered F.O.B. to the Delivery Points by railcars owned or leased by Seller. By written agreement of the parties, delivery may be made by way of bulk trucks.

**SECTION 6.2 *Monthly Delivery Instruction.*** By the fifteenth (15<sup>th</sup>) day of each month, Buyer shall furnish to Seller in writing a good faith estimate of the quantities of Product (reasonably consistent with the Requirements) to be delivered to the Buyer's Facilities during each of the next three (3) months and such instructions and estimates for the month immediately following such notice shall be final and binding unless subsequently modified by agreement of



the parties. The parties shall cooperate reasonably to distribute deliveries of Product in approximately equal monthly quantities during each Year, provided that Buyer and Seller will use reasonable efforts to accommodate other delivery patterns of Buyer and Seller.

**SECTION 6.3 *Title and Risk of Loss of Product.*** Until Buyer withdraws Product from consignment, title and ownership of Product shall at all times remain with Seller, but Buyer shall have the right to withdraw Product by moving, preparing or otherwise dealing with the Product in connection with its use by Buyer to manufacture its products at the facilities referenced in Exhibit 3.1 (a) (the “ Delivery Point(s)”). Once Buyer withdraws the Product from consignment for any reason, Buyer shall be deemed to have purchased such Product, and title and ownership of such Product shall pass to Buyer.

**SECTION 6.4 *Weights.*** Seller’ s weights and measures shall govern except in case of proven error.

## **ARTICLE VII ALLOCATION**

**SECTION 7.1 *Allocation:*** During the time when the demand for Product exceeds Seller’ s supply, Seller may allocate its available supply of Product among Seller’ s pre-existing written contract customers and Seller’ s internal uses in such manner as Seller deems fair and reasonable taking into account that Buyer is purchasing % of its Requirements for Product from Seller and Buyer’ s previous history of forecasting and purchases. Such allocation shall not be deemed a breach of this Agreement. It is not Seller’ s intent to unreasonably exercise this right of allocation or to give an unfair preference to Seller’ s internal uses. In the event of allocation pursuant to this Section, the parties shall meet to attempt to agree on a mutually acceptable method for Buyer to replace the Product that will not be supplied by Seller as a result of such allocation. In any case, during such allocation, Buyer may purchase any shortfall of Product from third parties and such purchase shall not be deemed a breach of this Agreement.

## **ARTICLE VIII WARRANTIES**

**SECTION 8.1 *Seller’ s and Buyer’ s Warranties.*** SELLER’ S SOLE AND EXCLUSIVE WARRANTY IS THAT THE PRODUCT COMPLIES WITH THE PHYSICAL AND CHEMICAL SPECIFICATIONS SET FORTH IN EXHIBIT A TO THIS AGREEMENT AND THAT SELLER SHALL CONVEY TITLE THERETO FREE OF ANY LIENS OR ENCUMBRANCES AND THAT THE MANUFACTURE OF THE PRODUCT DOES NOT INFRINGE ANY VALID CLAIM OF ANY UNITED STATES OR CANADIAN PATENT. SELLER MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, WHETHER WITH RESPECT TO ITS RECOMMENDATIONS, INSTRUCTIONS, OR OTHERWISE AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES, WHETHER OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. Buyer warrants and covenants that (a) the Product is being purchased only for Buyer’ s use or consumption and will not be resold or otherwise transferred,

(b) Buyer's handling, use or consumption of the Product will not infringe any valid claim of any United States or Canadian patent, (c) Buyer will not use, consume or combine the Product for end uses intended to be toxic or lethal to humans, (d) Buyer has, and will use, the requisite expertise, personnel and equipment to handle, store, transport, use, consume and dispose of the Product (i) in compliance with all applicable laws and governmental regulations, actions, orders, decrees and requests, and (ii) in a manner so that the Product will not be injurious to any person or the environment, and (e) Buyer will promptly and carefully inspect the Product upon receipt.

**SECTION 8.2 *Patents.*** Seller's recommendations or instructions are not intended to suggest operations which would infringe any patents and Seller assumes no liability to Buyer of any kind or responsibility for any such infringement.

**SECTION 8.3 *Uses and Safe Handling.*** Buyer hereby acknowledges receipt of Seller's material safety data sheet with respect to the Product. Buyer shall maintain prudent safe handling and use procedures. Buyer will apprise its employees, contractors and customers of the hazards, proper use and handling requirements of the Product and shall comply with all applicable statutes, rules and regulations pertaining thereto.

**SECTION 8.4 *Claims; Liability.*** Buyer shall be deemed to have waived all claims with respect to any Product sold hereunder for which Buyer's notice of insufficient quality has not been given to Seller in writing within ninety (90) days of Buyer's receipt of such Product. Any such claim which is not asserted as a claim, counterclaim, and defense or set-off in a judicial proceeding instituted within two (2) years after the cause of action arises shall be forever waived, barred and released. Buyer's exclusive remedy, and Seller's and its affiliates' sole liability, for any shortfall in delivery of Product or failure of any Product to meet the specifications in Exhibit A, including but not limited to claims for breach of warranty, shall be limited, at Seller's sole option, to (a) payment to Buyer of the difference in the then current market value cost to replace such Product over the Final Price of such Product, or (b) Seller's replacement of the Product in respect of which a valid claim is made. In the event of a material breach by either party, the parties will meet to discuss how to address the material breach in a manner that is fair and reasonable and reduces the financial impact on the non breaching party. This could include, but not be limited to, having Buyer purchase Product from a third party on a contract basis, or Seller selling Product to a third party on a contract basis. In no event shall either party or their affiliates be liable for indirect, punitive, consequential, special, incidental or contingent damages, costs of litigation or for loss of business or business opportunities based upon a breach of warranty claim.

## **ARTICLE IX TAXES**

**SECTION 9.1 *Responsibility for Taxes.*** In addition to the Final Price, Buyer shall pay to Seller the amount of all federal, state and local governmental taxes, excises, duties, and/or other charges (including, without limitation, sales and use taxes, Superfund Taxes, taxes on gasoline blend stocks and additives, and excepting franchise or ad valorem taxes or taxes on or measured by net income) that Seller may be required to pay with respect to the purchase, exchange, manufacture, production, or sale of Product sold and delivered hereunder. Such

charges shall be added to Seller's invoice as a separate line item and shall be paid by Buyer as provided in Section 5.2. Retroactive charges (including interest at the then current prime rate thereon for which Seller is liable) may be added to an invoice in the event that subsequent to the original invoice, a law, regulation, ruling or determination of a taxing authority has caused Seller to be liable for such tax (and penalties and interest, if any).

## **ARTICLE X**

### **LIABILITY AND RESPONSIBILITY**

#### **SECTION 10.1** *Allocation of Liability.*

(a) Subject to the further provisions of this paragraph, Buyer assumes full responsibility for any liability arising out of the receipt, unloading, discharge, storage, handling, use and disposal of any conforming Product purchased hereunder (including non-conforming Product which was accepted by waiving specifications prior to delivery), including the use of such Product alone or in combination with other substances and compliance or non-compliance with any law or regulations relating thereto. Buyer agrees to indemnify, protect, defend and hold Seller harmless from and against any and all claims, actions, liability, loss, cost and expense (including reasonable attorneys' fees) for damages to any private or public property or resources, personal injury or death, fines or penalties, made against or incurred by Seller relating to any conforming Product purchased hereunder (including non-conforming Product which was accepted by waiving specifications prior to delivery) or the performance of Buyer, or by the agents, servants, employees or contractors of Buyer, in any way caused by acts or omissions occurring at the time of or subsequent to the delivery of Product to Buyer hereunder, or in any way arising out of violations of any federal, state or local statute or governmental rule or regulation by Buyer or its agents, servants, employees or contractors. It is the express intention of the parties that the indemnity provided for in this paragraph shall require Buyer to indemnify Seller as provided above except to the extent, on a comparative basis, that the actionable negligence of Seller, or its agents, servants, employees or contractors is the sole or a concurring cause of the injury or other damages alleged.

(b) Seller agrees to indemnify, protect, defend and hold Buyer harmless from and against any and all claims, actions, liability, loss, cost and expense (including reasonable attorneys' fees) for damages to any private or public property or resources, personal injury or death, fines or penalties, made against or incurred by Buyer relating to Product sold or the performance of Seller hereunder, or by the agents, servants, employees or contractors of Seller, in any way caused by acts or omissions occurring prior to the delivery of Product to Buyer hereunder, or in any way arising out of violations of any federal, state or local statute or governmental rule or regulation by Seller or its agents, servants, employees or contractors. It is the express intention of the parties that the indemnity provided for in this paragraph shall require Seller to indemnify Buyer as provided above, except to the extent, on a comparative basis, that the actionable negligence of Buyer, or its agents, servants, employees or contractors is the sole or a concurring cause of the injury or other damages alleged.

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**ARTICLE XI**  
**EXCUSE OF PERFORMANCE**

**SECTION 11.1** *Force Majeure*: Performance of any obligation under this Agreement (other than to make a payment when due) may be suspended by either party without liability to the other party, to the extent that such failure to perform is attributable to: an Act of God, war, riot, fire, explosion, accident, flood, sabotage, mechanical breakdown, cancellation of any permit or license or plant shutdown that is beyond a party's reasonable control; Seller's inability to obtain fuel, power, raw materials or equipment from its usual sources at prices it deems, in good faith, to be reasonable (a price that allows Seller to manufacture and sell Product above its variable costs); labor trouble, strike, lockout or injunction (whether or not such labor event is within the reasonable control of such party); governmental laws, regulations or orders; or any other cause beyond the reasonable control of such party that delays, prevents, restricts, limits, or renders commercially infeasible or impractical, the performance of this Agreement or the consumption, sale or use of the Product, except as to Product already in transit ("Force Majeure Event"). A Force Majeure Event shall also include a party's suspension of operation or closure of a Facility that produces or consumes Product because the operation of or product from that Facility fails to comply with, or becomes uneconomical because of compliance with, any applicable law or governmental regulation, order, decree or request. The affected party shall invoke this provision by promptly giving written notice to the other party of the nature and estimated duration and effect of the Force Majeure Event. The total purchase and sales Requirement hereunder shall be reduced by the quantity not delivered because of the Force Majeure Event, and this Agreement shall otherwise remain unaffected. In the event that that Force Majeure is expected to last more than one hundred eighty (180) consecutive days the parties will meet to discuss how to address the Force Majeure Event in a manner that is fair and reasonable and reduces the financial impact on the party receiving the notice. This could include, but not be limited to, having Buyer purchase Product from a third party on a contract basis, or Seller selling Product to a third party on a contract basis. In any case during a period of Force Majeure (i) suspending Seller's obligation to provide Buyer with its Requirement, Buyer may purchase any shortfall of Product from third parties and such purchase shall not be deemed to be a breach of this Agreement or (ii) impacting Buyer's Requirements, Buyer may reduce its Product purchases and such reduction shall not be deemed to be a breach of this Agreement.

A party shall not be required to remove or cure any Force Majeure Event if that removal or cure would involve additional expense or departure from its normal practices. If there is a Force Majeure Event, the affected party shall allocate its sales and purchases in a fair and reasonable manner that shall include its internal demands or supply.

**ARTICLE XII**  
**MISCELLANEOUS**

**SECTION 12.1** *Notices*. Any notice required or permitted to be given pursuant to this Agreement shall be in writing and shall be sufficiently given when duly mailed, postage prepaid, and addressed as follows or personally delivered or transmitted electronically.

If to Seller:

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If to Buyer:

PW Eagle, Inc.  
1550 Valley River Drive  
Eugene, Oregon 97440  
Attention: President  
Facsimile: (541) 686-9248

## **SECTION 12.2 \*\*\***

**SECTION 12.3 *Jurisdiction and Referral Through Management.*** The parties hereto agree that all of the provisions of this Agreement and any questions concerning its interpretation and enforcement shall be governed by the internal laws of the State of New York and the execution and delivery of this Agreement shall be deemed to be the transaction of business within the State of New York for purposes of conferring jurisdiction upon courts located within the state. The parties agree that any litigation arising out of this Agreement shall be brought only in the federal or state courts in the State of New York and both parties consent to the jurisdiction of said courts. In the event that a dispute shall develop under this Agreement respecting the performance of duties or obligations of a party, each party undertakes prior to implementing any other remedy hereunder, to refer the dispute upwardly step-wise within the management structure of each party to the level of CEO or equivalent in an effort to resolve the dispute. Each party will use good faith efforts to evaluate the merits of the dispute, and its potential liabilities with respect to the dispute, and will work expediently towards a good faith resolution. Nothing herein shall operate, however, to preclude a party from abandoning efforts pursuant to this sub-paragraph and seeking other remedies where the nature or extent of the matter under dispute has caused or imminently will cause grievous economic harm to the party.

**SECTION 12.4 *Confidentiality.*** Each of the parties hereto shall, and shall cause their respective employees, agents and other representatives to, hold in strict confidence and not utilize for any commercial or other purpose or disclose to any other person, except with the prior written consent of the other party hereto, which consent shall not be unreasonably withheld, any of the terms and provisions of this Agreement; *provided, however*, that the foregoing obligation of confidence shall not apply to (i) any such information that is or shall become generally available to the public other than as a result of a disclosure by or on behalf of such party, (ii) any such information that was available to a party on a non-confidential basis prior to the date of this Agreement, (iii) any such information that comes into a party's possession after the date of this Agreement from a third party not under any obligation of confidentiality with respect to such information, (iv) any such information disclosed to a third party who has undertaken a written obligation of confidentiality with respect to such information that is substantially the same as the obligation of confidentiality contained in this Section 12.4, or (v) any information that shall be required to be disclosed by or on behalf of a party as a result of any applicable law, rule or regulation of any governmental authority having competent jurisdiction, *provided*, that such party shall give the other party thirty (30) day's prior written notice before making any such disclosure

in accordance with the provisions of this clause (v) and such party uses its best efforts not to disclose the terms and provisions of Article III-Quantity, Article IV-Term, or Article V-Price. Seller acknowledges that Buyer is required pursuant to the rules and regulations of the Securities Act of 1933 and the Securities and Exchange Act of 1934, each as amended, to file this Agreement as a exhibit to its annual or quarterly filings, and Seller waives any notice form Buyer under this Section with regard thereto. Notwithstanding the above, Buyer shall use its best efforts to advise Seller of the filing and provide Seller an opportunity to comment prior to the filing.

Any party to this Agreement, its subsidiaries, and each employee, representative, or other agent of such party or its subsidiaries, may disclose at any time to any and all persons, without limitation of any kind, the U.S. federal income tax treatment and tax structure of this Agreement and all materials of any kind (including opinions or other tax analyses) provided to such party relating to such U.S. federal income tax treatment and tax structure.

Each party acknowledges that it is aware, and that it will advise its directors, officers, employees and representatives that the United States securities laws prohibit any person who has received from an issuer material, non-public information concerning that issuer from purchasing or selling securities of such issuer or from communicating such information to any other person under circumstances under which it is reasonably foreseeable that such person is likely to purchase or sell securities of such issuer.

**SECTION 12.5 *Entirety of Agreement.*** The provisions of this Agreement together with the Consignment Agreement constitute the entire understanding between the parties relating to the subject matter hereof. Neither party shall be bound by any change in, addition to or waiver of any of the provisions hereof unless approved in writing by its authorized representative.

**SECTION 12.6 *Waiver.*** Any waiver of any particular breach or default of this Agreement shall be in writing and shall not constitute a continuing waiver or a waiver of any other breach or default.

**SECTION 12.7 *Headings.*** Section headings or titles are included for ease of reference and do not constitute any part of the text or affect its meaning or interpretation.

**SECTION 12.8 *Buyer's Payment Default.*** In the event of any failure by Buyer to make any payment required hereunder (other than payments being disputed by Buyer in good faith) without deduction, setoff or counterclaim within ten (10) days after written demand for payment after the same becomes due, Seller may defer further deliveries until such default is remedied, and/or if, in Seller's reasonable opinion, such default will not be promptly cured, Seller may terminate this Agreement after a sixty (60) day notice period during which time Seller may suspend performance. The remedies provided for in this Section are in addition to any other remedies that may be available to either Buyer or Seller in the event of a default by the other party.

**SECTION 12.9 \*\*\***

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, signed this Agreement as of the day and year first above written

PW EAGLE, INC.

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Exhibit A  
SPECIFICATIONS



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Exhibit 3.1(a)

Year 2005 Facilities

Buyer' s Facilities

<u>Facility</u>	<u>Estimated Consumption</u>
Columbia, MO	
Buckhanan, WV	
Conroe, TX	
Tacoma, WA	
Sunnyside, WA	
Eugene, OR	
Cameron Park, CA	
Visalia, CA	
Perris, CA	
West Jordan, UT	
Hastings, NE	

Seller' s Facilities

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**FIRST AMENDMENT TO FOURTH AMENDED  
AND RESTATED LOAN AND SECURITY AGREEMENT**

THIS FIRST AMENDMENT TO FOURTH AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT ("First Amendment") is made as of the 15th day of March, 2005 by and among PW Eagle, Inc., a Minnesota corporation ("Borrower"), the lenders who are signatories hereto ("Lenders"), and Fleet Capital Corporation, a Rhode Island corporation ("FCC"), as agent for Lenders hereunder (FCC, in such capacity, being "Agent").

W I T N E S S E T H:

WHEREAS, Borrower, Agent and Lenders entered into a certain Fourth Amended and Restated Loan and Security Agreement dated as of October 25, 2004 (said Fourth Amended and Restated Loan and Security Agreement is hereinafter referred to as the "Loan Agreement"); and

WHEREAS, Borrower desires to amend and modify certain provisions of the Loan Agreement and, subject to the terms hereof, Agent and Lenders are willing to agree to such amendments and modifications;

NOW THEREFORE, in consideration of the premises, the mutual covenants and agreements herein contained, and any extension of credit heretofore, now or hereafter made by Agent and Lenders to Borrower, the parties hereto hereby agree as follows:

1. Definitions. All capitalized terms used herein without definition shall have the meaning given to them in the Loan Agreement.
2. Applicable Margin. Notwithstanding the provisions of the definition of Applicable Margin, the adjustment to the Applicable Margin scheduled to have occurred on May 1, 2005 shall be deemed to have occurred on April 1, 2005 so long as Borrower shall have delivered to Agent the financial statements required by subsection 8.1.3(ii) for the fiscal period ended March 31, 2005 on or prior to April 30, 2005.
3. Additional Definitions. The following definitions of "Covenant Election" and "First Amendment" are hereby inserted into Appendix A to the Loan Agreement:

"Covenant Election" - an election made by Borrower with respect to any fiscal quarter and the twelve month fiscal period then ended to reduce the covenant levels of Minimum EBITDA and Interest Coverage Ratio contained in Exhibit 8.3. Borrower may only exercise a Covenant Election and such Covenant Election shall only remain effective if (x) on each day from the date on which the Covenant Election is exercised until the date on which Borrower delivers to Agent the financial statements required by subsection 8.1.3(ii) for the last month of the fiscal quarter immediately succeeding the fiscal quarter for which the Covenant Election is to apply Availability equalled or exceeded \$8,000,000, (y) Borrower has not exercised a Covenant Election for more than six consecutive fiscal quarters and (z) Borrower has not exercised a Covenant Election for more than eight fiscal quarters within the Term. In order to make a Covenant Election, Borrower must notify Agent in writing as provided in Section 12.8 of such election no later than thirty days after the end of the fiscal quarter to which the Covenant Election is to apply. By way of example of the period described in clause (x) above, if Borrower wishes to make a Covenant Election for the fiscal quarter ended 12/31/05, then Borrower must notify Agent of such Covenant Election on or prior to January 30, 2006 and must maintain Availability greater than \$8,000,000 for each day from the date of the Covenant Election until the date on which the financial statements for the fiscal period ended March 31, 2006 are delivered to Agent.

First Amendment - that certain First Amendment to Fourth Amended and Restated Loan and Security Agreement dated as of March 15, 2005 by and among Borrower, Agent and Lenders.”

4. Distributions. Section 8.2.7 of the Loan Agreement is hereby deleted and the following is inserted in its stead:

“8.2.7 Distributions. Declare or make, or permit any Subsidiary of Borrower to declare or make, any Distributions; provided, however, that: (i) Borrower may make repurchases of Common Stock from its stockholders or may pay dividends on its Common Stock not in excess of an aggregate amount of \$500,000 during any fiscal year or \$125,000 in any fiscal quarter, in each case, provided (v) Borrower shall have Availability over the 60 days prior to such repurchase, on average, and immediately after giving effect to any such repurchase or dividend, of at least \$18,000,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period equals or exceeds 1.10 to 1; (x) EBITDA for the most recently ended twelve month period equalled or exceeded \$15,000,000, (y) Borrower’ s total Money Borrowed as of the last day of the most recently ended fiscal month equals or is less than \$114,000,000, and (z) no Default or Event of Default shall have occurred and be continuing; (ii) Borrower may make repurchases of Common Stock from its stockholders or may pay dividends on its Common Stock not in excess of an aggregate amount of \$1,000,000 during any fiscal year or \$250,000 in any fiscal quarter, in each case, provided (v) Borrower shall have Availability over the 60 days prior to such repurchase or dividend, on average, and immediately after giving effect to any such repurchase, of at least \$21,000,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period equals or exceeds 1.10 to 1; (x) EBITDA for the most recently ended twelve month period equalled or exceeded \$20,000,000, (y) Borrower’ s total Money Borrowed as of the last day of the most recently ended fiscal month equals or is less than \$102,000,000, and (z) no Default or Event of Default shall have occurred and be continuing; (iii) Borrower may make repurchases of Common Stock from its stockholders or may pay dividends on its Common Stock not in excess of an aggregate amount of \$2,000,000 during any fiscal year or \$500,000 in any fiscal quarter, in each case, provided (v) Borrower shall have Availability over the 60 days prior to such repurchase or dividend, on average, and immediately after giving effect to any such repurchase, of at least \$25,000,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period equals or exceeds 1.10 to 1; (x) EBITDA for the most recently ended twelve month period equalled or exceeded \$22,500,000, (y) Borrower’ s total Money Borrowed as of the last day of the most recently ended fiscal month equals or is less than \$89,000,000; (iv) Borrower may make repurchases of Common Stock from its stockholders or may pay dividends on its Common Stock not in excess of an aggregate amount of \$4,000,000 during any fiscal year or \$1,000,000 in any fiscal quarter, in each case, provided (v) Borrower shall have Availability over the 60 days prior to such repurchase or dividend, on average, and immediately after giving effect to any such repurchase, of at least \$28,000,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period equals or



exceeds 1.15 to 1; (x) EBITDA for the most recently ended twelve month period equalled or exceeded \$25,000,000, (y) Borrower' s total Money Borrowed as of the last day of the most recently ended fiscal month equals or is less than \$82,000,000 and (z) no Default or Event of Default shall have occurred and be continuing and (v) Borrower may make a Distribution to its stockholders and certain holders of warrants to purchase shares of Borrower' s capital stock of shares of capital stock of PW Poly or of cash proceeds received from any sale of the capital stock of PW Poly. The foregoing notwithstanding, Borrower shall make no Distribution if the making of such Distribution is prohibited by the terms of the 2004 Subordinated Note Documents.”

5. Capital Expenditures. Subsection 8.2.8 of the Loan Agreement is hereby deleted and the following is inserted in its stead:

“8.2.8 Capital Expenditures. (a) Make Capital Expenditures (including, without limitation, by way of capitalized leases) which, in the aggregate, as to Borrower and its Subsidiaries during any fiscal year (or other period) of Borrower exceeds the amount set forth opposite such fiscal year (or other period) in the following schedule:

<u>Fiscal Year Ending</u>	<u>Permitted Capital Expenditure</u>
December 31, 2004 and each December 31 thereafter	\$ 2,000,000

(b) The foregoing notwithstanding, if for any fiscal year Borrower incurs less than the maximum amount of permitted Capital Expenditures permitted hereunder (such difference is hereinafter referred to as the “Capital Expenditure Carryover”), then Capital Expenditures incurred within the first six months of the next fiscal year up to an amount equal to the lesser of \$750,000 (or \$1,500,000 as provided below) and the Capital Expenditure Carryover, shall be treated, for purposes of this Section 8.2.8, as incurred in the prior fiscal year.

(c) The foregoing notwithstanding, if Borrower' s EBITDA for a fiscal year was \$13,000,000 or more but less than \$15,000,000 and Availability as of each day within the applicable fiscal year equalled or exceeded \$8,000,000, then for such fiscal year permitted Capital Expenditures shall be increased to \$3,000,000.

(d) The foregoing notwithstanding, if Borrower' s EBITDA for a fiscal year was \$15,000,000 or more but less than \$20,000,000 and Availability as of each day within the applicable fiscal year equalled or exceeded \$8,000,000, then for such fiscal year permitted Capital Expenditures shall be increased to \$4,000,000 and the Capital Expenditure Carryover shall be increased to \$1,500,000.

(e) The foregoing notwithstanding, if Borrower' s EBITDA for a fiscal year was \$20,000,000 or more and Availability as of each day within the applicable fiscal year equalled or exceeded \$8,000,000, then for such fiscal year permitted Capital Expenditures

shall be increased to \$6,000,000 and the Capital Expenditure Carryover shall be increased to \$1,500,000.”

6. Financial Covenants. As of the “First Amendment Effective Date” (as defined in Section 5 of the First Amendment), Exhibit 8.3 to the Loan Agreement is hereby deleted and Exhibit 8.3 attached hereto and incorporated herein is incorporated into the Loan Agreement in its stead.

7. Amendment Fee. In order to induce Agent and Lenders to enter into this First Amendment, Borrower agrees to pay to Agent, for the ratable benefit of Lenders, an amendment fee equal to \$25,000. Said amendment fee shall be deemed fully earned and non-refundable and shall be due and payable on the First Amendment Effective Date.

8. Conditions Precedent. This First Amendment shall become effective upon satisfaction of each of the following conditions precedent:

(A) Borrower, Agent and Lenders shall have executed and delivered to each other this First Amendment;

(B) Borrower and the lenders under the 2004 Subordinated Note Documents shall have entered into an amendment to the Subordinated Note Documents in form and substance acceptable to Agent;

(C) Borrower shall have delivered to Agent the PVC Resin Supply Agreement (together with all amendments thereto) between Borrower and Oxy Vinyls, LP dated as of January 1, 2005 and the terms and conditions of such PVC Resin Supply Agreement (and such amendments) shall be acceptable to Agent in its reasonable discretion; and

(D) Borrower shall have paid to Agent for the ratable benefit of Lenders the amendment fee referred to in Section 7 of this First Amendment.

The date on which all of the foregoing conditions precedent are satisfied shall be called the “First Amendment Effective Date.”

9. Miscellaneous.

- (a) This First Amendment is limited as specified and shall not constitute an amendment, modification or waiver of any other provision of the Loan Agreement or any other Loan Document.
- (b) This First Amendment may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which counterparts when executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

10. Continuing Effect. Except as otherwise specifically set out herein, the provisions of the Loan Agreement shall remain in full force and effect.

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*(Signature Page Follows)*

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*(Signature Page to First Amendment to  
Fourth Amended and Restated Loan and Security Agreement)*

IN WITNESS WHEREOF, this First Amendment has been duly executed as of the day and year specified at the beginning hereof.

**PW EAGLE, INC.**, (“Borrower”)

By:

/s/ Scott Long

---

Name: Scott Long

Title: Chief Financial Officer

**FLEET CAPITAL CORPORATION**, as Agent and as  
a Lender

By:

/s/ Brian Conole

---

Name: Brian Conole

Title: Senior Vice President

**WELLS FARGO BUSINESS CREDIT, INC.**,  
as a Lender

By:

/s/ Mona M. Krueger

---

Name: Mona M. Krueger

Title: Vice President

**THE CIT GROUP/BUSINESS CREDIT, INC.**,  
as a Lender

By:

/s/ Anthony Alexander

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Name: Anthony Alexander

Title: Vice President

## EXHIBIT 8.3

### FINANCIAL COVENANTS

**Consolidated Net Income** means, with respect to Borrower and its Subsidiaries (other than PW Poly) for any fiscal period, the net income (or loss) of Borrower and its Subsidiaries for such period taken as a whole (determined in accordance with GAAP on a consolidated basis), but excluding in any event: (a) any gains or losses on the sale or other disposition of Investments or fixed or capital assets or from any transaction classified as extraordinary under GAAP, any taxes on such excluded gains and any tax deductions or credits on account of any such excluded losses; (b) the proceeds of any life insurance policy; (c) net earnings and losses of any business entity, substantially all the assets of which have been acquired in any manner by Borrower, realized by such business entity prior to the date of such acquisition; (d) net earnings and losses of any business entity which shall have merged into Borrower earned or incurred prior to the date of such merger; (e) net earnings of any business entity (other than a Consolidated Subsidiary) in which Borrower has an ownership interest unless such net earnings shall have been received by Borrower in the form of cash distributions; (f) earnings resulting from a reappraisal, revaluation or write-up of assets; (g) any charge to net earnings resulting from the amortization of the value of stock options given to employees to the extent required by FASB 25; (h) any increase or decrease of net income arising from a change in Borrower's accounting methods; (i) any gains resulting from the forgiveness of Funded Debt or the retirement of Funded Debt at a discount; (j) any gain arising from the acquisition of any Securities of Borrower; (k) any reversal of any contingency reserve, unless the provision for such contingency reserve shall have been made from income arising during the fiscal period in question; and (l) any charge to earnings resulting from the write-off of deferred loan costs and/or debt discounts in connection with repayment of the 1999 Subordinated Notes and the Obligations under the Original Loan Agreement and the ETI Loan Agreement.

**EBITDA** With respect to any fiscal period, the sum of Borrower's Consolidated Net Income plus amounts deducted in determining Consolidated Net Income in respect of: (a) any provision for (or less any benefit from) income taxes whether current or deferred; (b) amortization and depreciation expense; (c) Interest Expense for such period; and (d) the amount, if any, deducted from Consolidated Net Income (and not otherwise added back pursuant to clause (a), (b) or (c) of this definition) paid to Oxy Vinyls, LP in connection with Section 5.5 of the new PVC Resin Supply Agreement referred to in Section 8(c) of the First Amendment. For purposes of this Section 8.3 and Exhibit 8.3, EBITDA, for fiscal periods ending on or prior to December 31, 2004, shall not include restructuring charges of up to \$1,000,000 which were incurred in fiscal year 2003, but were expensed in fiscal year 2004 and up to \$400,000 of expenses which have been or will be incurred in connection with the PW Poly spin-off contemplated by Section 8.2.7(v).

**Fixed Charge Coverage Ratio** - With respect to any period of determination, the ratio of (i) EBITDA of Borrower for such period minus income taxes paid in cash and non-financed Capital Expenditures during such period to (ii) Fixed Charges.

**Fixed Charges** - For any period of determination, the sum of (a) scheduled principal payments of **Funded Debt** (including the principal portion of scheduled payments of Capital Lease Obligations), (b) Interest Expense paid in cash included in the determination of Consolidated Net Income, (c) dividends paid on, or repurchases or redemptions of, Borrower's capital stock and (d) the amount of the reduction in the Fixed Asset Maximum Amount occurring within such period of determination.

**Interest Coverage Ratio** - With respect to any period of determination, the ratio of (i) EBITDA for such period to (ii) Interest Expense paid in cash for such period, all as determined in accordance with GAAP.

**Interest Expense** - With respect to any fiscal period, the interest expense incurred for such period excluding interest income as determined in accordance with GAAP, including, without limitation (whether or not such amount is included within interest expense pursuant to GAAP), the amounts payable to Oxy Vinyls, LP under Section 5.5 of the new PVC Resin Supply Agreement referred to in Section 8(c) of the First Amendment.

**Interest Coverage Ratio** - Borrower shall not permit the Interest Coverage Ratio as of the last date of the period set forth below to be less than the ratio set forth opposite such period below:

Period	Ratio
Three months ended December 31, 2004	0.15 to 1

Six months ended March 31, 2005	0.60 to 1
Nine months ended June 30, 2005	1.60 to 1
Twelve months ended September 30, 2005 and each December 31, March 31, June 30 and September 30 thereafter	1.80 to 1; <u>provided</u> that if Borrower has properly made a Covenant Election with respect to the last fiscal quarter of the applicable twelve month period, then Minimum Interest Coverage Ratio shall be decreased to 1.00 to 1.

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**Minimum EBITDA** - Borrower shall achieve EBITDA of \$15,000,000 or more for the twelve month period ending December 31, 2004 and each twelve month period ending each March 31, June 30, September 30 and December 31 thereafter; provided that if Borrower has properly made a Covenant Election with respect to the last fiscal quarter of the applicable twelve month period, then the Minimum EBITDA for such twelve month period shall be decreased to \$10,000,000.



**FIRST AMENDMENT TO SENIOR SUBORDINATED NOTE PURCHASE  
AGREEMENT AND JUNIOR SUBORDINATED NOTE PURCHASE AGREEMENT**

THIS FIRST AMENDMENT TO SENIOR SUBORDINATED NOTE PURCHASE AGREEMENT AND JUNIOR SUBORDINATED NOTE PURCHASE AGREEMENT ("First Amendment") is made as of the 15th day of March, 2005 by and among PW Eagle, Inc., a Minnesota corporation ("Company") and Churchill Capital Partners IV, L.P., a Delaware limited partnership ("Note Purchaser").

**W I T N E S S E T H:**

WHEREAS, the Company and Note Purchaser entered into that certain Senior Subordinated Note Purchase Agreement dated as of October 25, 2004 (the "Senior Subordinated Agreement") and that certain Junior Subordinated Note Purchase Agreement dated as of October 25, 2004 (the "Junior Subordinated Agreement" and, together with the Senior Subordinated Agreement, the "Note Purchase Agreements"); and

WHEREAS, the Company desires to amend and modify certain provisions of the Note Purchase Agreements and, subject to the terms hereof, Note Purchaser is willing to agree to such amendments and modifications;

NOW THEREFORE, in consideration of the premises, the mutual covenants and agreements herein contained, and any extension of credit heretofore, now or hereafter made by Note Purchaser to the Company, the parties hereto hereby agree as follows:

11. Definitions. All capitalized terms used herein without definition shall have the meaning given to them in the Loan Agreement.

12. Additional and Amended Definitions. Section 1.1 of each of the Note Purchase Agreements is hereby amended by adding or amending, as applicable, the following definitions:

"Capital Expenditure Carryover" shall have the meaning specified in Section 7.7.

"Debt to EBITDA Ratio" shall have the meaning specified in Section 7.5(b)

"EBITDA" shall mean with respect to any fiscal period, the sum of Consolidated Net Income for such period plus amounts deducted in determining such Consolidated Net Income in respect of: (a) any provision for (or less any benefit from) income taxes whether current or deferred; (b) amortization and depreciation expense; (c) Interest Expense for such period; and (d) the amount, if any, deducted from Consolidated Net Income (and not otherwise added back pursuant to clause (a), (b), or (c) of this definition) paid to OxyVinyls, LP in connection with Section 5.5 of the new PVC Resin Supply Agreement referred to in Section 7(C) of the First Amendment. For purposes of Schedule

6.5, EBITDA for fiscal periods ending on or prior to December 31, 2004, shall not include restructuring charges of up to \$1,000,000 which were incurred in fiscal year 2003, but were expensed in fiscal year 2004 and up to \$400,000 of expenses which have been or will be incurred in the PW Poly Spinoff.

“First Amendment” shall mean that certain First Amendment to Senior Subordinated Note Purchase Agreement and Junior Subordinated Note Purchase Agreement dated as of March 15, 2005 by and between the Company and Note Purchaser.”

“Interest Expense” means, with respect to any fiscal period, the interest expense incurred for such period excluding interest income as determined in accordance with GAAP, including, without limitation (whether or not such amount is included within interest expense pursuant to GAAP), the amount payable to Oxy Vinyls, LP under Section 5.5 of the new PVC Resin Supply Agreement referred to in Section 7(C) of the First Amendment.

### 13. Additional Definitions.

(a) Section 1.1 of the Senior Subordinated Agreement is hereby amended by adding the following definition:

“Covenant Election” shall mean an election made by the Company with respect to any fiscal quarter and the twelve month fiscal period then ended to reduce the covenant levels of Minimum EBITDA and Interest Coverage Ratio contained in Schedule 6.5. The Company may only exercise a Covenant Election and such Covenant Election shall only remain effective if (x) on each day from the date on which the Covenant Election is exercised until the date on which the Company delivers to Note Purchaser the financial statements required by subsection 6.2(b) for the last month of the fiscal quarter immediately succeeding the fiscal quarter for which the Covenant Election is to apply Availability equaled or exceeded \$9,000,000, (y) the Company has not exercised a Covenant Election for more than six consecutive fiscal quarters and (z) the Company has not exercised a Covenant Election for more than eight fiscal quarters within the term of this Agreement. In order to make a Covenant Election, the Company must notify Note Purchaser in writing as provided in Section 10.4 of such election no later than thirty days after the end of the fiscal quarter to which the Covenant Election is to apply. By way of example of the period described in clause (x) above, if the Company wishes to make a Covenant Election for the fiscal quarter ended December 31, 2005, then the Company must notify Note Purchaser of such Covenant Election on or prior to January 30, 2006 and must maintain Availability greater than \$9,000,000 for each day from the date of the Covenant Election until the date on which the financial statements for the fiscal period ended March 31, 2006 are delivered to Note Purchaser.

(b) Section 1.1 of the Junior Subordinated Agreement is hereby amended by adding the following definition:

“Covenant Election” shall mean an election made by the Company with respect to any fiscal quarter and the twelve month fiscal period then ended to reduce the covenant levels of Minimum EBITDA and Interest Coverage Ratio contained in Schedule 6.5. The Company may only exercise a Covenant Election and such Covenant Election shall only remain effective if (x) on each day from the date on which the Covenant Election is exercised until the date on which the Company delivers to Note Purchaser the financial statements required by subsection 6.2(b) for the last month of the fiscal quarter immediately succeeding the fiscal quarter for which the Covenant Election is to apply Availability equaled or exceeded \$8,100,000, (y) the Company has not exercised a Covenant Election for more than six consecutive fiscal quarters and (z) the Company has not exercised a Covenant Election for more than eight fiscal quarters within the term of this Agreement. In order to make a Covenant Election, the Company must notify Note Purchaser in writing as provided in Section 10.4 of such election no later than thirty days after the end of the fiscal quarter to which the Covenant Election is to apply. By way of example of the period described in clause (x) above, if the Company wishes to make a Covenant Election for the fiscal quarter ended December 31, 2005, then the Company must notify Note Purchaser of such Covenant Election on or prior to January 30, 2006 and must maintain Availability greater than \$8,100,000 for each day from the date of the Covenant Election until the date on which the financial statements for the fiscal period ended March 31, 2006 are delivered to Note Purchaser.

#### 14. Distributions.

(a) Section 7.5(b) of the Senior Subordinated Agreement is hereby deleted and the following is inserted in its stead:

Notwithstanding the foregoing, (i) the Company may effect the PW Poly Spinoff; (ii) the Company may make repurchases of its common stock from its stockholders or may pay dividends on its common stock not in excess of an aggregate amount of \$500,000 during any fiscal year or \$125,000 in any fiscal quarter, in each case, provided (u) the Company shall have delivered the financial statements required by Section 6.2(a) or (b), as applicable, for the fiscal year ending December 31, 2005 or for any fiscal quarter or fiscal year ending thereafter, and such financial statements and the Compliance Certificate delivered in connection therewith show compliance with the covenants set forth on Schedule 6.5, (v) the Company shall have Availability over the 60 days prior to such repurchase or dividend, on average, and immediately after giving effect to any such repurchase or dividend, of at least \$18,000,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period computed on a pro forma basis (assuming such repurchase or dividend had occurred during such twelve month period) equals or exceeds 1.05 to 1; (x) EBITDA for the most recently ended twelve month period equaled or exceeded \$15,000,000, (y) the ratio of (A) the sum of the Company's average amount of Funded Debt over the twelve month period prior to the date of such repurchase or dividend plus the amount of the dividend or the repurchase to (B) EBITDA for the most recently ended twelve month period (such ratio hereinafter referred to as the “Debt to EBITDA Ratio”) equals or is less than 7.00 to 1, and (z) no Default or Event of Default shall have occurred and be continuing; (iii) the Company may make repurchases of its common stock from its stockholders or may pay dividends on its common stock not in excess of an aggregate amount of \$1,000,000 during any fiscal year or \$250,000 in any fiscal quarter, in each case, provided (u) the Company shall have delivered the financial statements required by Section 6.2(a) or (b), as applicable, for the fiscal year ending December 31, 2005 or for any fiscal quarter or fiscal year ending thereafter, and such financial statements and the Compliance Certificate delivered in connection therewith show compliance with the covenants set forth on Schedule 6.5, (v) the Company shall have Availability over the 60 days

prior to such repurchase or dividend, on average, and immediately after giving effect to any such repurchase or dividend, of at least \$20,700,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period computed on a pro forma basis (assuming such repurchase or dividend had occurred during such twelve month period) equals or exceeds 1.05 to 1; (x) EBITDA for the most recently ended twelve month period equaled or exceeded \$20,000,000, (y) the Company' s Debt to EBITDA Ratio equals or is less than 4.50 to 1, and (z) no Default or Event of Default shall have occurred and be continuing; (iv) the Company may make repurchases of its common stock from its stockholders or may pay dividends on its common stock not in excess of an aggregate amount of \$2,000,000 during any fiscal year or \$500,000 in any fiscal quarter, in each case, provided (u) the Company shall have delivered the financial statements required by Section 6.2(a) or (b), as applicable, for the fiscal year ending December 31, 2005 or for any fiscal quarter or fiscal year ending thereafter, and such financial statements and the Compliance Certificate delivered in connection therewith show compliance with the covenants set forth on Schedule 6.5, (v) the Company shall have Availability over the 60 days prior to such repurchase or dividend, on average, and immediately after giving effect to any such repurchase or dividend, of at least \$24,300,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period computed on a pro forma basis (assuming such repurchase or dividend had occurred during such twelve month period) equals or exceeds 1.10 to 1; (x) EBITDA for the most recently ended twelve month period equaled or exceeded \$25,000,000, (y) the Company' s Debt to EBITDA Ratio equals or is less than 3.00 to 1, and (z) no Default or Event of Default shall have occurred and be continuing; (v) the Company may make repurchases of its common stock from its stockholders or may pay dividends on its common stock not in excess of an aggregate amount of \$4,000,000 during any fiscal year or \$1,000,000 in any fiscal quarter, in each case, provided (u) the Company shall have delivered the financial statements required by Section 6.2(a) or (b), as applicable, for the fiscal year ending December 31, 2005 or for any fiscal quarter or fiscal year ending thereafter, and such financial statements and the Compliance Certificate delivered in connection therewith show compliance with the covenants set forth on Schedule 6.5, (v) the Company shall have Availability over the 60 days prior to such repurchase or dividend, on average, and immediately after giving effect to any such repurchase or dividend, of at least \$27,000,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period computed on a pro forma basis (assuming such repurchase or dividend had occurred during such twelve month period) equals or exceeds 1.25 to 1; (x) EBITDA for the most recently ended twelve month period equaled or exceeded \$25,000,000, (y) the Company' s Debt to EBITDA Ratio equals or is less than 2.00 to 1 and (z) no Default or Event of Default shall have occurred and be continuing; and (vi) the Company may repurchase the Warrants or the Warrant Shares (as defined in the Warrant Agreement) allocated to the Notes pursuant to Schedule 2.2 to the Warrant Agreement.

(b) Section 7.5(b) of the Junior Subordinated Agreement is hereby deleted and the following is inserted in its stead:

Notwithstanding the foregoing, (i) the Company may effect the PW Poly Spinoff; (ii) the Company may make repurchases of its common stock from its stockholders or may pay dividends on its common stock not in excess of an aggregate amount of \$500,000 during any fiscal year or \$125,000 in any fiscal quarter, in each case, provided (u) the Company shall have delivered the financial statements required by Section 6.2(a) or (b), as applicable, for the fiscal year ending December 31, 2005 or for any fiscal quarter or fiscal year ending thereafter, and such financial statements and the Compliance Certificate delivered in connection therewith show compliance with the covenants set forth on Schedule 6.5, (v) the Company shall have Availability over the 60 days prior to such repurchase or dividend, on average, and immediately after giving effect to any such repurchase or dividend, of at least \$18,000,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period computed on a pro forma basis (assuming

such repurchase or dividend had occurred during such twelve month period) equals or exceeds 1.05 to 1; (x) EBITDA for the most recently ended twelve month period equaled or exceeded \$15,000,000, (y) the ratio of (A) the Company's average amount of Funded Debt over the twelve month period prior to the date of such repurchase or dividend to (B) EBITDA for the most recently ended twelve month period (such ratio hereinafter referred to as the "Debt to EBITDA Ratio") equals or is less than 7.00 to 1, and (z) no Default or Event of Default shall have occurred and be continuing; (iii) the Company may make repurchases of its common stock from its stockholders or may pay dividends on its common stock not in excess of an aggregate amount of \$1,000,000 during any fiscal year or \$250,000 in any fiscal quarter, in each case, provided (u) the Company shall have delivered the financial statements required by Section 6.2(a) or (b), as applicable, for the fiscal year ending December 31, 2005 or for any fiscal quarter or fiscal year ending thereafter, and such financial statements and the Compliance Certificate delivered in connection therewith show compliance with the covenants set forth on Schedule 6.5, (v) the Company shall have Availability over the 60 days prior to such repurchase or dividend, on average, and immediately after giving effect to any such repurchase or dividend, of at least \$20,700,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period computed on a pro forma basis (assuming such repurchase or dividend had occurred during such twelve month period) equals or exceeds 1.05 to 1; (x) EBITDA for the most recently ended twelve month period equaled or exceeded \$20,000,000, (y) the Company's Debt to EBITDA Ratio equals or is less than 4.50 to 1, and (z) no Default or Event of Default shall have occurred and be continuing; (iv) the Company may make repurchases of its common stock from its stockholders or may pay dividends on its common stock not in excess of an aggregate amount of \$2,000,000 during any fiscal year or \$500,000 in any fiscal quarter, in each case, provided (u) the Company shall have delivered the financial statements required by Section 6.2(a) or (b), as applicable, for the fiscal year ending December 31, 2005 or for any fiscal quarter or fiscal year ending thereafter, and such financial statements and the Compliance Certificate delivered in connection therewith show compliance with the covenants set forth on Schedule 6.5, (v) the Company shall have Availability over the 60 days prior to such repurchase or dividend, on average, and immediately after giving effect to any such repurchase or dividend, of at least \$24,300,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period computed on a pro forma basis (assuming that such repurchase or dividend had occurred during such twelve month period) equals or exceeds 1.10 to 1; (x) EBITDA for the most recently ended twelve month period equaled or exceeded \$25,000,000, (y) the Company's Debt to EBITDA Ratio equals or is less than 3.00 to 1, and (z) no Default or Event of Default shall have occurred and be continuing; (v) the Company may make repurchases of its common stock from its stockholders or may pay dividends on its common stock not in excess of an aggregate amount of \$4,000,000 during any fiscal year or \$1,000,000 in any fiscal quarter, in each case, provided (u) the Company shall have delivered the financial statements required by Section 6.2(a) or (b), as applicable, for the fiscal year ending December 31, 2005 or for any fiscal quarter or fiscal year ending thereafter, and such financial statements and the Compliance Certificate delivered in connection therewith show compliance with the covenants set forth on Schedule 6.5, (v) the Company shall have Availability over the 60

days prior to such repurchase or dividend, on average, and immediately after giving effect to any such repurchase or dividend, of at least \$27,000,000, (w) the Fixed Charge Coverage Ratio for the most recently ended twelve month period computed on a pro forma basis (assuming that such repurchase or dividend had occurred during such twelve month period) equals or exceeds 1.25 to 1; (x) EBITDA for the most recently ended twelve month period equaled or exceeded \$25,000,000, (y) the Company's Debt to EBITDA Ratio equals or is less than 2.00 to 1 and (z) no Default or Event of Default shall have occurred and be continuing; and (vi) the Company may repurchase the Warrants or the Warrant Shares (as defined in the Warrant Agreement)."

15. Capital Expenditures. Subsection 7.7 of each of the Note Purchase Agreements is hereby deleted and the following is inserted in its stead:

"Section 7.7 Capital Expenditures.

(a) The Company will not make or permit any of its Subsidiaries to make any Capital Expenditure (including, without limitation, by way of capitalized leases) for any fiscal year that exceed in the aggregate the amount set forth opposite such fiscal year in the following schedule:

Fiscal Year Ending	Permitted Capital Expenditure
December 31, 2004 and each	\$ 2,000,000

December 31 thereafter

(b) Notwithstanding the foregoing, if for any fiscal year the Company incurs less than the maximum amount of Capital Expenditures permitted hereunder (such difference is hereinafter referred to as the "Capital Expenditure Carryover"), then Capital Expenditures incurred within the first six months of the next fiscal year up to an amount equal to the lesser of \$750,000 (or \$1,500,000 as provided below) or the Capital Expenditure Carryover, shall be treated, for purposes of this Section 7.7 as incurred in the prior fiscal year.

(c) The foregoing notwithstanding, if the Company's EBITDA for a fiscal year was \$13,000,000 or more but less than \$15,000,000 and Availability as of each day within the applicable fiscal year equaled or exceeded \$8,000,000, then for such fiscal year permitted Capital Expenditures shall be increased to \$3,000,000.

(d) The foregoing notwithstanding, if the Company's EBITDA for a fiscal year was \$15,000,000 or more but less than \$20,000,000 and Availability as of each day within the applicable fiscal year equaled or exceeded \$8,000,000, then for such fiscal year permitted Capital Expenditures shall be increased to \$4,000,000 and the Capital Expenditure Carryover shall be increased to \$1,500,000.

(e) The foregoing notwithstanding, if the Company's EBITDA for a fiscal year was \$20,000,000 or more and Availability as of each day within the applicable fiscal year equaled or exceeded \$8,000,000, then for such fiscal year permitted Capital

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Expenditures shall be increased to \$6,000,000 and the Capital Expenditure Carryover shall be increased to \$1,500,000.”

16. Financial Covenants.

(a) As of the “First Amendment Effective Date” (as defined in Section 8 of the First Amendment), Schedule 6.5 to the Senior Subordinated Agreement is hereby deleted and Schedule 6.5(a) attached hereto and incorporated herein is incorporated into the Senior Subordinated Agreement in its stead.

(b) As of the First Amendment Effective Date, Schedule 6.5 to the Junior Subordinated Agreement is hereby deleted and Schedule 6.5(b) attached hereto and incorporated herein is incorporated into the Junior Subordinated Agreement in its stead.

17. Amendment Fee. In order to induce Note Purchaser to enter into this First Amendment, the Company agrees to pay to Note Purchaser, an amendment fee equal to \$12,500. Said amendment fee shall be deemed fully earned and non-refundable and shall be due and payable on the First Amendment Effective Date.

18. Conditions Precedent. This First Amendment shall become effective upon satisfaction of each of the following conditions precedent:

(A) The Company and Note Purchaser shall have executed and delivered to each other this First Amendment;

(B) The Company, Agent and Senior Creditors shall have entered into an amendment to the Senior Credit Agreement in form and substance acceptable to Note Purchaser;

(C) The Company shall have delivered to Note Purchaser the PVC Resin Supply Agreement (together with all amendments thereto) between the Company and Oxy Vinyls, LP dated as of January 1, 2005 and the terms and conditions of such PVC Resin Supply Agreement (and such amendments) shall be acceptable to Note Purchaser in its reasonable discretion; and

(D) The Company shall have paid to Note Purchaser for the ratable benefit of Lenders the amendment fee referred to in Section 7 of this First Amendment.

The date on which all of the foregoing conditions precedent are satisfied shall be called the “First Amendment Effective Date.”

19. Miscellaneous.

(a) This First Amendment is limited as specified and shall not constitute an amendment, modification or waiver of any other provision of the Note Purchase Agreements or any other Note Document.

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- (b) This First Amendment may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which counterparts when executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

20. Continuing Effect. Except as otherwise specifically set out herein, the provisions of the Note Purchase Agreements shall remain in full force and effect.

*(Signature Page Follows)*



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*(Signature Page to First Amendment to Senior Subordinated Note Purchase Agreement  
and Junior Subordinated Note Purchase Agreement)*

IN WITNESS WHEREOF, this First Amendment has been duly executed as of the day and year specified at the beginning hereof.

**PW EAGLE, INC.**

By:

/s/ Scott Long

\_\_\_\_\_  
Name: Scott Long

Title: CFO

**CHURCHILL CAPITAL PARTNERS IV, L.P.,**

a Delaware limited partnership

**By CHURCHILL CAPITAL IV, L.L.C.,**

its General Partner

**By CHURCHILL CAPITAL, INC.,**

as Managing Agent

By: /s/ Mark McDonald

\_\_\_\_\_  
Its Partner

## FINANCIAL COVENANTS

The Company (inclusive of the Subsidiaries) will comply with the following financial covenants (all of which will be calculated excluding PW Poly):

(a) The Company shall not permit its Interest Coverage Ratio for any period set forth below to be less than the ratio set forth opposite such period below:

Period	Minimum Interest Coverage Ratio
Three months ended December 31, 2004	.14 to 1
Six months ended March 31, 2005	.54 to 1
Nine months ended June 30, 2005	1.44 to 1
Twelve months ended September 30, 2005 and each December 31, March 31, June 30 and September 30 thereafter	1.62 to 1; provided that if the Company properly made a Covenant Election with respect to the last fiscal quarter of the applicable twelve month period, then Minimum Interest Coverage Ratio shall be decreased to .90 to 1 for such twelve month period.

(b) The Company shall not permit its EBITDA to be less than \$13,500,000 for the twelve month period ending December 31, 2004 and each twelve month period ending March 31, June 30, September 30 and December 31 thereafter; provided that if the Company has properly made a Covenant Election with respect to the last fiscal quarter of the applicable twelve month period, then minimum EBITDA shall be decreased to \$9,000,000 for such twelve month period.

(c) The Company shall not permit at any time during each period set forth below its Availability to be less than the amount set forth opposite such period below:

Period	Availability
December 31, 2004 to April 30, 2005	\$900,000
May 1, 2005 through the term of the Senior Credit Agreement	\$1,800,000

## FINANCIAL COVENANTS

The Company (inclusive of the Subsidiaries) will comply with the following financial covenants (all of which will be calculated excluding PW Poly):

(a) The Company shall not permit its Interest Coverage Ratio for any period set forth below to be less than the ratio set forth opposite such period below:

Period	Minimum Interest Coverage Ratio
Three months ended December 31, 2004	.12 to 1
Six months ended March 31, 2005	.49 to 1
Nine months ended June 30, 2005	1.30 to 1
Twelve months ended September 30, 2005 and each December 31, March 31, June 30 and September 30 thereafter	1.46 to 1; provided that if the Company properly made a Covenant Election with respect to the last fiscal quarter of the applicable twelve month period, then Minimum Interest Coverage Ratio shall be decreased to .81 to 1 for such twelve month period.

(b) The Company shall not permit its EBITDA to be less than \$12,150,000 for the twelve month period ending December 31, 2004 and each twelve month period ending March 31, June 30, September 30 and December 31 thereafter; provided that if the Company has properly made a Covenant Election with respect to the last fiscal quarter of the applicable twelve month period, then minimum EBITDA shall be decreased to \$8,100,000 for such twelve month period.

(c) The Company shall not permit at any time during each period set forth below its Availability to be less than the amount set forth opposite such period below:

Period	Availability
December 31, 2004 to April 30, 2005	\$800,000
May 1, 2005 through the term of the Senior Credit Agreement	\$1,600,000

**FIRST AMENDMENT TO CREDIT AND SECURITY AGREEMENT AND WAIVER OF DEFAULTS**

This **FIRST AMENDMENT TO CREDIT AND SECURITY AGREEMENT AND WAIVER OF DEFAULTS**, dated as of March 10, 2005, is made by and between USPOLY COMPANY, a Minnesota corporation (the “Borrower”), and WELLS FARGO BUSINESS CREDIT, INC., a Minnesota corporation (the “Lender”).

**Recitals**

The Borrower and the Lender are parties to an Amended and Restated Credit and Security Agreement dated as of September 27, 2004 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the “Credit Agreement”).

The Borrower has requested that certain amendments be made to the Credit Agreement which the Lender is willing to make pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, it is agreed as follows:

1. Defined Terms. Capitalized terms used in this Amendment which are defined in the Credit Agreement shall have the same meanings as defined therein, unless otherwise defined herein. In addition, Section 1.1 of the Credit Agreement is amended by amending the following definitions:

“Borrowing Base” means at any time the lesser of:

(a) the Maximum Line; or

(b) subject to change from time to time in the Lender’s sole discretion, the sum of:

(i) 85% of Eligible Accounts, (other than Eligible Accounts included in the Dating Program), plus

(ii) 80% of that portion of Eligible Accounts included in the Dating Program that does not exceed \$1,500,000, plus

(iii) the lesser of (A) 60% of Eligible Inventory or (B) \$8,000,000, minus

(iv) The Wells Fargo Bank Obligations Reserve.

“Floating Rate” means (i) with respect to the Revolving Advances, an annual interest rate equal to the sum of the Base Rate plus one percent (1.00%),

(ii) with respect to the Term Advance, an annual rate of interest equal to the sum of the Base Rate plus one and one-quarter of one percent (1.25%), (iii) with respect to the Over-Advance Term Advance, an annual rate of interest equal to the sum of the Base Rate plus three-quarters of one percent (0.75%), and (iv) with respect to the Real Estate Advance, an annual rate of interest equal to the sum of the Base Rate plus one and one half percent (1.50%), which interest rates shall, in each case, change when and as the Base Rate changes.

“Maximum Line” means \$15,000,000 unless said amount is reduced pursuant to Section 2.16, in which event it means such lower amount.

“Medallion Subordination Agreement” means that certain Amended and Restated Subordination Agreement dated as of September 27, 2004 between the Lender and Medallion Capital, Inc., as the same may be amended, restated or otherwise modified from time to time.

2. Amendment to Eligible Accounts. Section 1.1 of the Credit Agreement is further amended by deleting subclause (xiv) and the last sentence of the definition of “Eligible Accounts” contained therein and by substituting in lieu thereof the following:

(xiv) That portion of the Accounts owed by any account debtor which would cause the total Accounts owed by such account debtor which would be Eligible Accounts but for this subclause (xiv) to exceed 25% (or in the case of Rainmaker Sales, 30%) of the aggregate Accounts owing by all account debtors which would be Eligible Accounts but for this subclause (xiv), in each case based upon the unpaid balance of such Accounts; and

(xv) Accounts, or portions thereof otherwise deemed ineligible by the Lender in its sole discretion.

Satisfaction of the conditions specified in clauses (i) through (xiv) of this definition shall be determined from time to time by the Lender in its sole discretion.

3. Financial Covenants. Sections 6.2(a), (b), (c) and (d) of the Credit Agreement are amended to read in their entireties as follows:

(a) **Minimum Debt Service Coverage Ratio**. The Borrower will maintain its Debt Service Coverage Ratio, determined on each December 31 (commencing on December 31, 2004) for the period from the beginning of the calendar year containing such date to such date, at not less than 1.05 to 1.00 (or, on December 31, 2004, 0.25 to 1.00).

(b) **Maximum Senior Debt to Capital Base Ratio**. The Borrower will maintain its Senior Debt to Capital Base Ratio, determined as at the end of each calendar year, at not more than (a) 4.00 to 1.00 as at December 31, 2004 and (b) 3.25 to 1.00 as at December 31, 2005 and the last day of each calendar year thereafter.

(c) **Minimum Earnings Before Taxes**. The Borrower will achieve Earnings Before Taxes, for the period from the beginning of the calendar year containing the following

indicated months to the last day of such month, of not less than the amount set forth opposite such month (numbers in parenthesis denote negative numbers):

<u>Period Ending on the Last Day Of</u>	<u>Minimum Earnings Before Taxes</u>
December, 2004	\$ (1,600,000 )
January, 2005	\$ (400,000 )
February, 2005	\$ (650,000 )
March, 2005	\$ (950,000 )
April, 2005	\$ (975,000 )
May, 2005	\$ (650,000 )
June, 2005	\$ (325,000 )
July, 2005	\$ (150,000 )
August, 2005	\$ 150,000
September, 2005	\$ 500,000
October, 2005	\$ 800,000
November, 2005	\$ 800,000
December, 2005	\$ 800,000
January, 2006	\$ (400,000 )
February, 2006	\$ (650,000 )
March, 2006	\$ (900,000 )

April, 2006

\$ (900,000 )

May 2006 and thereafter

\$ (650,000 )

(d) **Capital Expenditures.** The Borrower will not incur or contract to incur Capital Expenditures (in each case excluding the purchase price paid in connection with the Acquisition) of more than (a) \$1,000,000 in the aggregate during the calendar year ending December 31, 2004 and (b) \$1,500,000 in the aggregate during any calendar year ending on or after December 31, 2005.

4. Salaries. Section 6.8 of the Credit Agreement is amended to read in its entirety as follows:

Section 6.8 Salaries. The Borrower will not pay excessive or unreasonable salaries, bonuses, commissions, consultant fees or other compensation; or increase the salary, bonus, commissions, consultant fees or other compensation of any Director, Officer or consultant, or any member of their families, by more than 10% in any one year, either individually or for all such persons in the aggregate, or pay any such increase from any source other than profits earned in the year of payment, provided, that as long as no Default or Event of Default has occurred or would result therefrom, the Borrower may pay a management fee to Spell Capital Partners, LLC in an amount up to \$37,500

during the calendar quarter ending on December 31, 2004 and up to \$150,000 during the 2005 calendar year. The Borrower may engage or hire consultants from time to time which engagement or hiring shall not be deemed an increase in consultant fees. The Borrower will not enter into any employment contracts with any Person, other than the employment contracts existing on the date hereof and listed in Schedule 6.8 hereto.

5. New Form of Revolving Note. Exhibit A to the Credit Agreement is amended to read as set forth in Exhibit A hereto, which Exhibit A is made a part of the Credit Agreement as Exhibit A.

6. New Schedules. Schedules 5.1, 5.2 and 5.11 of the Credit Agreement are amended to read as set forth on Exhibit B hereto.

7. No Other Changes. Except as explicitly amended by this Amendment, all of the terms and conditions of the Credit Agreement shall remain in full force and effect and shall apply to any advance or letter of credit thereunder.

8. Waiver of Defaults. The Borrower is in default of the following provisions of the Credit Agreement as they existed prior to the date of this Agreement (collectively, the "Existing Financial Covenant Defaults"):

<u>Section/Covenant</u>	<u>Periods in Default</u>
Section 6.2(c) Minimum Earnings Before Taxes	October 2004 and November 2004

In addition, the Borrower has advised the Lender that it has paid a management fee of \$37,500 to Spell Capital Partners, LLC ("Spell") in the calendar quarter ending on December 31, 2004. Under Section 2 of the Subordination Agreement dated as of September 27, 2004 by and among the Bank, the Borrower, Medallion Capital, Inc. ("Medallion") and Spell, the Borrower agreed to not pay Spell a management fee in excess of \$31,250 in any calendar quarter. Under Section 7.1(i) of the Credit Agreement, it is an Event of Default if there is a default under any material contract of the Borrower (a contract being deemed "material" if it exceeds \$50,000 of amounts remaining unpaid by the Borrower) (collectively with the Existing Financial Covenant Defaults, the "Existing Defaults").

Upon the terms and subject to the conditions set forth in this Amendment, the Lender hereby waives the Existing Defaults. This waiver shall be effective only in this specific instance and for the specific purpose for which it is given, and this waiver shall not entitle the Borrower to any other or further waiver in any similar or other circumstances.

9. Amendment Fee. The Borrower shall pay the Lender as of the date hereof a fully earned, non-refundable fee in the amount of \$60,000 in consideration of the Lender's execution and delivery of this Amendment.

10. Conditions Precedent. This Amendment, and the waiver set forth in Paragraph 8 hereof, shall be effective when the Lender shall have received an executed original hereof,



together with each of the following, each in substance and form acceptable to the Lender in its sole discretion:

(a) The Lender shall have received a Certificate of Authority for Amendment by the Secretary of the Borrower certifying as to (i) the resolutions of the board of directors of the Borrower approving the execution and delivery of this Amendment, (ii) the fact that the articles of incorporation and bylaws of the Borrower, which were certified and delivered to the Lender pursuant to the Certificate of Authority of the Borrower's secretary or assistant secretary dated as of September 27, 2004 continue in full force and effect and have not been amended or otherwise modified except as set forth such Certificate, and (iii) certifying that the officers and agents of the Borrower who have been certified to the Lender, pursuant to the Certificate of Authority of the Borrower's secretary or assistant secretary dated as of September 27, 2004, as being authorized to sign and to act on behalf of the Borrower continue to be so authorized or setting forth the sample signatures of each of the officers and agents of the Borrower authorized to execute and deliver this Amendment and all other documents, agreements and certificates on behalf of the Borrower.

(b) The Amended and Restated Revolving Note in the form of Exhibit A hereto, duly executed by the Borrower.

(c) A First Amendment to Subordination Agreement in a form prescribed by the Lender, duly executed by Medallion.

(d) A First Amendment to Subordination Agreement in a form prescribed by the Lender, duly executed by Uponor Aldyl Company, Inc.

(e) A Second Amendment to Subordination Agreement in a form prescribed by the Lender, duly executed by the Borrower, Medallion and Spell.

(f) A copy of any amendment to the Medallion Subordinated Debt documents, in form and substance acceptable to the Lender, certified as true and correct by the Secretary of the Borrower.

(g) A true and correct copy of any settlement agreement(s) with respect to the settlement of earn out payments by and between the Borrower and Uponer North America.

(h) Payment of the fee described in Paragraph 9.

(i) Such other matters as the Lender may reasonably require.

11. Representations and Warranties. The Borrower hereby represents and warrants to the Lender as follows:

(a) The Borrower has all requisite power and authority to execute this Amendment and to perform all of its obligations hereunder, and this Amendment has been duly executed and delivered by the Borrower and constitutes the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms.

(b) The execution, delivery and performance by the Borrower of this Amendment have been duly authorized by all necessary corporate action and do not (i) require any authorization, consent or approval by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect, having applicability to the Borrower, or the articles of incorporation or by-laws of the Borrower, or (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which the Borrower is a party or by which it or its properties may be bound or affected.

(c) All of the representations and warranties contained in Article V of the Credit Agreement are correct on and as of the date hereof as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

12. References. All references in the Credit Agreement to “this Agreement” shall be deemed to refer to the Credit Agreement as amended hereby; and any and all references in the Security Documents to the Credit Agreement shall be deemed to refer to the Credit Agreement as amended hereby.

13. No Other Waiver. Except as set forth in Paragraph 8 hereof, the execution of this Amendment and acceptance of any documents related hereto shall not be deemed to be a waiver of any Default or Event of Default under the Credit Agreement or breach, default or event of default under any Security Document or other document held by the Lender, whether or not known to the Lender and whether or not existing on the date of this Amendment.

14. Release. The Borrower hereby absolutely and unconditionally releases and forever discharges the Lender, and any and all participants, parent corporations, subsidiary corporations, affiliated corporations, insurers, indemnitors, successors and assigns thereof, together with all of the present and former directors, officers, agents and employees of any of the foregoing, from any and all claims, demands or causes of action of any kind, nature or description, whether arising in law or equity or upon contract or tort or under any state or federal law or otherwise, which the Borrower has had, now has or has made claim to have against any such person for or by reason of any act, omission, matter, cause or thing whatsoever arising from the beginning of time to and including the date of this Amendment, whether such claims, demands and causes of action are matured or unmatured or known or unknown.

15. Costs and Expenses. The Borrower hereby reaffirms its agreement under the Credit Agreement to pay or reimburse the Lender on demand for all costs and expenses incurred by the Lender in connection with the Loan Documents, including without limitation all reasonable fees and disbursements of legal counsel. Without limiting the generality of the foregoing, the Borrower specifically agrees to pay all fees and disbursements of counsel to the Lender for the services performed by such counsel in connection with the preparation of this Amendment and the documents and instruments incidental hereto. The Borrower hereby agrees that the Lender may, at any time or from time to time in its sole discretion and without further authorization by the Borrower, make a loan to the Borrower under the Credit Agreement, or apply the proceeds of any loan, for the purpose of paying any such fees, disbursements, costs and expenses and the fee required under Paragraph 9 hereof.

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16. Miscellaneous. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument.

[Remainder of page intentionally left blank.]

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

WELLS FARGO BUSINESS CREDIT, INC.

USPOLY COMPANY

By: /s/s Mona M. Krueger

By:

/s/ Frank Bailor

\_\_\_\_\_  
Its: Vice-President

\_\_\_\_\_  
Its: President

[Signature Page to First Amendment to Credit  
and Security Agreement and Waiver of Defaults]

**EXHIBIT 1**  
**TO**  
**FIRST AMENDMENT**  
**TO**  
**AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT**  
**BY AND BETWEEN**  
**WELLS FARGO BUSINESS CREDIT, INC.**  
**AND**  
**USPOLY COMPANY**

**LIST OF REVISED SCHEDULES**

- Schedule 5.1 Trade Names, Chief Executive Office, Principal Place of Business, and Locations of Collateral
- Schedule 5.2 Capitalization and Organizational Chart
- Schedule 5.11 Intellectual Property Disclosures

**SCHEDULE 5.1**

**Trade Names, Chief Executive Office, Principal Place of Business, and Locations of Collateral**

**Assumed Names:**

PW Poly Corp.

Extrusion Technologies, Inc.

USPoly Company

**Chief Executive Office:**

7901 N. Kickapoo

Shawnee, OK 74804

**Principal Place of Business:**

7901 N. Kickapoo

Shawnee, OK 74804

(Records relating to the Business are kept at this location, 1933 West Second Street, Hastings, NE 68901 and 4501 W. 49<sup>th</sup> Street, Tulsa, OK 74107)

**Other Inventory and Equipment Locations:**

600 David Eccles Road

700 E. 45<sup>th</sup> Street

Baker City, Oregon 97814

Shawnee, OK 74801

1840 McCain Parkway

8730 E. Clauson Avenue

Pelham, AL 35128

Pico Rivera, CA 90660

125, 143, and 145 North Maple Street

1811 East Commerce Drive

Hastings, Nebraska 68902

Fayetteville, AR 72701

116 and 120 North Woodland

1255 N. 13<sup>th</sup> Street

Hastings, Nebraska 68902

Rogers, AR 72756

Buildings 18, 19 and 20

2707 North Eola Road, Suite B

Industrial Park East

Aurora, IL 60504

Hastings, Nebraska 68902

Buildings 1 and 2

8117 Burch Park Drive

Spady Industrial Park East

Evansville, IN 47725

Hastings, Nebraska 68902

112-124; 136-140 and 146 Chestnut Street

729 West Winder Industrial Parkway

Hastings, Nebraska 68902

Winder, GA 30680

1075 W. North Temple

12 River Road

Salt Lake City, UT 84116

Chatham, NJ 07928

6390 S. Jasmine Way

1414 Castlewood Drive

Englewood, CO 80111

Wheaton, IL 60189

2184 S. 394<sup>th</sup> W. Avenue

11 Doe Hill Road

Mannford, OK 74077

Morristown, NJ 07960

4501 West 49<sup>th</sup> Street

Tulsa, OK, 74107



**SCHEDULE 5.2**

**Capitalization and Organizational Chart**

**Capitalization:**

See attached.

**Subsidiaries:**

None.

**CAPITALIZATION**

<b>Record Holder</b>	<b>Number of Shares</b>	<b>Number of Warrants</b>	<b>Number of Options</b>	<b>Percentage Owned</b>
PW Eagle, Inc.	9,830,133			56.88 %
Agio Poly Partners	840,000			4.86 %
AIC II Investments	100,000			0.58 %
Baratz Family Ltd. Partnership	50,000			0.29 %
Frank B. & Connie J. Bennett	40,000			0.23 %
Arland D. Brusven	50,000			0.29 %
Joseph J. Buska	50,000			0.29 %
Bruce A. Christensen	50,000			0.29 %
Clint Hill Partners Four	150,000			0.87 %
John Colwell Jr.	20,000			0.12 %
Concord Development Co. Profit Share Trust; Paul Coniaris, Trustee	20,000			0.12 %
UBS Financial Services Custodian for Thomas W. Devine IRA	30,000			0.17 %
Andrew Dovolis	8,000			0.05 %
Anne Dovolis	8,000			0.05 %
Gregg Dovolis	8,000			0.05 %

Gregg Dovolis	50,000		0.29	%
Robert J. Evans	150,000		0.87	%
Kevin P. & Martha K. Harris	200,000		1.16	%
Ed Hengel Jr.	50,000		0.29	%
Ronald J. Herold	200,000		1.16	%
Randy Morgan	20,000		0.12	%
MoCo Inc.	20,000		0.12	%
Richard W. Perkins, Trustee U/A dtd. 6-14-78 FBO RW Perkins	100,000		0.58	%
Victor Philip Reim	200,000		1.16	%
Bruce A. Richard	150,000	37,500	1.08	%
Harry W. Spell, II Irrevoc. Trust (3)	8,000	37,500	0.26	%
Nichole Spell Irrevocable Trust	8,000		0.05	%
William H. Spell	150,000	120,250	1.56	%
James J. Tiampo Money Purchase Plan & Trust (Keogh) c/o James J. Tiampo, Trustee	200,000		1.16	%
Chris P. & Rosemary E. Tountas	50,000		0.29	%
Donald A. Washburn	200,000		1.16	%
Dobson West	150,000	54,750	1.18	%

Medallion Base Shares (1)		1,091,914.78	6.32	%
Medallion Performance Shares (2)		2,192,294.02	12.69	%
Darlene Jerome	9,090	6,818	0.09	%
Frank V. Bailor	204,545	204,545	2.37	%
Darren Warn	90,909	68,182	0.92	%
Michael Shaw	2,272	1,705	0.02	%
<b>Total (3)(4)</b>	<b>13,466,949</b>	<b>3,284,208.81</b>	<b>531,250</b>	<b>100.00 %</b>

- (1) Exact number of warrant shares will equal 7.5% (excluding Base Shares) of the Borrower as of date of the Spin Off
- (2) Exact number of warrant shares will be the number required to give Medallion Capital, Inc. a 24% internal rate of return as of September 27, 2009 not to exceed shares equaling 14% of the Company on a fully diluted basis.
- (3) Options issued to Harry W. Spell.

**SCHEDULE 5.11**

**Intellectual Property Disclosures**

**(a) Intellectual Property:**

Meter Loop Frame Assembly.

Country	Type	Status	Application Number/Date	Issued
				Number/Registration Date
USA	Patent	Granted	09/627,942	6382679
			07/28/2000	05/07/2002

Adjustable Meter Loop Assembly.

Country	Type	Status	Application Number/Date	Issued
				Number/Registration Date
USA	Patent	Granted	10/052,660	6,668,644
			01/18/2002	12/30/2003

Coupling Device - Plastic Pipes ("MetFit")

Country	Type	Status	Application Number/Date	Issued
				Number/Registration Date
USA	Patent	Granted	08/077992	5388873
			06/18/1993	02/14/1995
Japan	Patent	Granted	7-502954	3366928
			06/16/1994	11/8/2002
Canada	Patent	Pending	2165448	
			06/16/1994	

Anodeless service riser

Country	Type	Status	Application Number/Date	Issued
				Number/Registration Date
USA	Patent	Granted	09/206,043	6237963
			12/04/1998	05/29/2001
Canada	Patent	Pending	2350554	
			12/02/1999	
Mexico	Patent	Pending	PA/2001/005611	
			12/02/1999	

MetFit

Country	Type	Status	Application Number/Date	Registration
				Number/Date
Finland	Trademark	Registered	199504858	208924
			08/25/1995	01/30/1998
USA	Trademark	Registered	74-198958	1760686
			08/28/1991	03/23/1993
Benelux	Trademark	Registered	854406	584715
			08/24/1995	
Germany	Trademark	Registered	39534653.3	39534653
			08/24/1995	07/16/1996
UK	Trademark	Registered	2031636	2031636
			08/25/1995	07/26/1996
France	Trademark	Registered	95585487	95585487
			08/23/1995	

### Allcoat3

<u>Country</u>	<u>Type</u>	<u>Status</u>	<u>Application Number/Date</u>	<u>Registration Number/Date</u>
USA	Trademark	Pending	76530883	
			07/18/2003	

### Duratherm System

<u>Country</u>	<u>Type</u>	<u>Status</u>	<u>Application Number/Date</u>	<u>Registration Number/Date</u>
USA	Trademark	Pending	76422939	
			06/19/2002	

### Ultra - Stripe

<u>Country</u>	<u>Type</u>	<u>Status</u>	<u>Application Number/Date</u>	<u>Registration Number/Date</u>
USA	Trademark	Pending	76446326	
			09/03/2002	

### Aldyl

<u>Country</u>	<u>Type</u>	<u>Status</u>	<u>Application Number/Date</u>	<u>Registration Number/Date</u>
USA	Trademark	Registered	72-190904	0781240
			04/13/1964	12/08/1964
Canada	Trademark	Registered	CA031306700	TMA0161532
			05/8/1968	03/07/1969

### pwpoly

<u>Country</u>	<u>Type</u>	<u>Status</u>	<u>Application Number/Date</u>	<u>Registration Number/Date</u>
USA	Trademark	Pending	78/228,172	
			03/20/03	

### USPOLY & Design

<u>Country</u>	<u>Type</u>	<u>Status</u>	<u>Application Number/Date</u>	<u>Registration Number/Date</u>
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USA

Trademark

Pending

78/421,865

05/19/04

8



### GREEN STRIPE DESIGN MARK

<u>Country</u>	<u>Type</u>	<u>Status</u>	<u>Application Number/Date</u>	<u>Registration Number/Date</u>
USA	Trademark	Registered		1,559,008
				10/03/89

### PURE-CORE

<u>Country</u>	<u>Type</u>	<u>Status</u>	<u>Application Number/Date</u>	<u>Registration Number/Date</u>
USA	Trademark	Registered		1,526,900
				02/28/89

### TRI-STRIPLE

<u>Country</u>	<u>Type</u>	<u>Status</u>	<u>Application Number/Date</u>	<u>Registration Number/Date</u>
USA	Trademark	Registered		1,640,478
				04/09/91

### PURE-CORE BLUE XT

<u>Country</u>	<u>Type</u>	<u>Status</u>	<u>Application Number/Date</u>	<u>Registration Number/Date</u>
USA	Trademark	Pending	78/289,010	
			08/19/03	

**(c) Intellectual Property Licensed from Others:**

Novell software and services pursuant to a certain Corporate License Agreement by and among Novell Ireland Software Limited, Novell, Inc. and the Uponor Group assigned to the Borrower pursuant to that certain Novation Agreement dated effective on or about September 27, 2004.

Borrower has a limited right to use the name “Uponor” pursuant to the Acquisition Documents.

Borrower has rights to use the trademark “PW PURPLEPLUS”, which has United States Federal Trademark Registration No. 1,723,768 pursuant to that certain Trademark License Agreement dated as of October 4, 2004, between PW Eagle, Inc., as Owner, and Borrower f/k/a PW Poly Corp., as Licensee.

**(d) Other Intellectual Property Needed for Business:**

Borrower has copyrights in all written works

Borrower also uses and has common law rights in the following trademarks: EAGLE, EAGLE 3408, COMM PLUS, EAGLE TRI-STRIPE, GREEN STRIPE (word mark), EAGLE-TOUGH, POLY FLO, GEO-FLO, EAGLE GEO-FLO, POLY FLEX, POLY-DRIP and POLY-LD

**(e) Infringement:**

By Letter Agreement dated December 30, 2002 (“Letter Agreement”), Seller agreed to pay Kerotest Manufacturing Corp. (“Kerotest”) \$10,000.00 for the privilege of selling 150 units of the Uponor ServicePro 2000 Battery Powered Electrofusion Processor (the “Units”), which allegedly infringe patent No. 5951902, in order to resolve any potential claim by Kerotest against the Seller for patent infringement (the “Kerotest Dispute”). Borrower assumed the Letter Agreement pursuant to the Acquisition Documents. Moreover, after all the Units covered by the \$10,000.00 initial payment to Kerotest are sold, Borrower must pay a \$50.00 royalty payment to Kerotest upon the sale of each additional unit until all inventory contemplated by the Kerotest Dispute has been sold. As of July 27, 2004, there were approximately 143 units remaining in inventory, approximately 35 of which were part of the first 150 Units covered by the initial \$10,000.00 royalty payment and approximately 108 of which require the \$50.00 per unit royalty payment to Kerotest upon sale.

EXHIBIT A TO FIRST  
AMENDMENT TO CREDIT AND  
SECURITY AGREEMENT  
AND WAIVER OF DEFAULTS

EXHIBIT A TO AMENDED AND RESTATED  
CREDIT AND SECURITY AGREEMENT

**AMENDED AND RESTATED  
REVOLVING NOTE**

\$15,000,000

Minneapolis, Minnesota  
March 10, 2005

For value received, the undersigned, USPOLY COMPANY., a Minnesota corporation (the "Borrower"), hereby promises to pay on the Termination Date under the Credit Agreement (defined below), to the order of WELLS FARGO BUSINESS CREDIT, INC., a Minnesota corporation (the "Lender"), at its main office in Minneapolis, Minnesota, or at any other place designated at any time by the holder hereof, in lawful money of the United States of America and in immediately available funds, the principal sum of FIFTEEN MILLION DOLLARS (\$15,000,000) or, if less, the aggregate unpaid principal amount of all Revolving Advances made by the Lender to the Borrower under the Credit Agreement (defined below) together with interest on the principal amount hereunder remaining unpaid from time to time, computed on the basis of the actual number of days elapsed in a 360-day year, from the date hereof until this Note is fully paid at the rate from time to time in effect under the Amended and Restated Credit and Security Agreement of even date herewith (as the same may hereafter be amended, supplemented or restated from time to time, the "Credit Agreement") by and between the Lender and the Borrower. The principal hereof and interest accruing thereon shall be due and payable as provided in the Credit Agreement. This Note may be prepaid only in accordance with the Credit Agreement.

This Note is issued pursuant, and is subject, to the Credit Agreement, which provides, among other things, for acceleration hereof. This Note is the Revolving Note referred to in the Credit Agreement. This Note is secured, among other things, pursuant to the Credit Agreement and the Security Documents as therein defined, and may now or hereafter be secured by one or more other security agreements, mortgages, deeds of trust, assignments or other instruments or agreements.

This Note amends and restates, but does not constitute prepayment upon or a novation of, the Revolving Note dated as of September 27, 2004 made by the undersigned in favor of the Lender in the original principal amount of \$10,000,000.

The Borrower shall pay all costs of collection, including reasonable attorneys' fees and legal expenses if this Note is not paid when due, whether or not legal proceedings are commenced.

Presentment or other demand for payment, notice of dishonor and protest are expressly waived.

USPOLY COMPANY

By:

/s/ Frank Bailor

\_\_\_\_\_

Its: President

## FIRST AMENDMENT TO SUBORDINATION AGREEMENT

This FIRST AMENDMENT TO SUBORDINATION AGREEMENT (this “Amendment”), dated as of March 10, 2005, is made by and among WELLS FARGO BUSINESS CREDIT, INC. (“Wells Fargo”), MEDALLION CAPITAL, INC. (“Medallion”) (Wells Fargo and Medallion being each a “Lender” and collectively the “Lenders”), USPOLY COMPANY (the “Company”) and SPELL CAPITAL PARTNERS, LLC (the “Subordinated Creditor”).

### RECITALS

The Lenders, the Company and the Subordinated Creditor are parties to a Subordination Agreement dated as of September 27, 2004 (the “Subordination Agreement”).

The Company and the Subordinated Creditor have requested that certain amendments be made to the Subordination Agreement, which the Lenders are willing to make pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, it is agreed as follows:

1. Defined Terms. Capitalized terms used in this Amendment which are defined in the Subordination Agreement shall have the same meanings as defined therein, unless otherwise defined herein.
2. Terms of Subordination. Section 2 of the Subordination Agreement is amended by deleting the amount “31,250” as it appears in the last paragraph thereof and by substituting the amount “37,500” in lieu thereof.
3. Consent to First Amendment. The Subordinated Creditor hereby consents to the execution and delivery of any amendments to the Senior Loan Agreement or any of the Loan Documents (as defined in the Senior Loan Agreement) referred to therein that are dated concurrently herewith.
4. No Other Changes. Except as explicitly amended by this Amendment, all of the terms and conditions of the Subordination Agreement shall remain in full force and effect and shall apply to any advance or letter of credit thereunder.
5. Effectiveness. This Amendment shall be effective as of the date first above written upon the complete execution and delivery (whether by facsimile or otherwise) thereof.
6. Miscellaneous. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument.

SPELL CAPITAL PARTNERS, LLC

USPOLY COMPANY

By: /s/ William H. Spell

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Name: William H. Spell

Its: President

By: /s/ William H. Spell

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Name: William H. Spell

Its: President

WELLS FARGO BUSINESS CREDIT, INC.

MEDALLION CAPITAL, INC.

By: /s/ Mona M. Krueger

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Name: Mona M. Krueger

Its: Vice-President

By: /s/ Thomas F. Hunt, Jr.

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Name: Thomas F. Hunt, Jr.

Its: President

**CERTIFICATION**

I, Jerry A. Dukes, Chief Executive Officer of PW Eagle, Inc., certify that:

1. I have reviewed this report on Form 10-Q of PW Eagle, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and we have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: May 6, 2005

Signature:

/s/ Jerry A. Dukes

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Jerry A. Dukes

Chief Executive Officer

**CERTIFICATION**

I, Scott Long, Chief Financial Officer of PW Eagle, Inc., certify that:

1. I have reviewed this report on Form 10-Q of PW Eagle, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and we have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: May 6, 2005

Signature:

/s/ Scott Long

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Scott Long

Chief Financial Officer



CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of PW Eagle, Inc. (the "Company") on Form 10-Q for the quarter ended March 31, 2005 as filed with the Securities and Exchange Commission (the "Report"), I, Jerry A. Dukes, Chief Executive Officer, of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: May 6, 2005

/s/ Jerry A. Dukes

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Jerry A. Dukes

Chief Executive Officer

CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of PW Eagle, Inc. (the "Company") on Form 10-Q for the quarter ended March 31, 2005 as filed with the Securities and Exchange Commission (the "Report"), I, Scott Long, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: May 6, 2005

/s/ Scott Long

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Scott Long

Chief Financial Officer