

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

---

**FORM 10-Q**

---

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

For the quarterly period ended **June 30, 2013**

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 **001-12019**

---

**QUAKER CHEMICAL CORPORATION**  
(Exact name of Registrant as specified in its charter)

---

**Pennsylvania**  
(State or other jurisdiction of  
incorporation or organization)

**23-0993790**  
(I.R.S. Employer  
Identification No.)

**One Quaker Park, 901 E. Hector Street,  
Conshohocken, Pennsylvania**  
(Address of principal executive offices)

**19428 – 2380**  
(Zip Code)

Registrant's telephone number, including area code: **610-832-4000**

Not Applicable

Former name, former address and former fiscal year, if changed since last report.

---

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

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer   
Non-accelerated filer  (Do not check if smaller reporting company)

Accelerated filer   
Smaller reporting Company

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

**Number of Shares of Common Stock  
Outstanding on June 30, 2013**

**13,168,484**

---

---

## QUAKER CHEMICAL CORPORATION AND CONSOLIDATED SUBSIDIARIES

	<u>Page</u>
<b>PART I. FINANCIAL INFORMATION</b>	
<b>Item 1.</b> Financial Statements (unaudited)	
<a href="#">Condensed Consolidated Balance Sheet at June 30, 2013 and December 31, 2012</a>	3
<a href="#">Condensed Consolidated Statement of Income for the Three and Six Months Ended June 30, 2013 and June 30, 2012</a>	4
<a href="#">Condensed Consolidated Statement of Comprehensive Income for the Three and Six Months Ended June 30, 2013 and June 30, 2012</a>	5
<a href="#">Condensed Consolidated Statement of Cash Flows for the Six Months Ended June 30, 2013 and June 30, 2012</a>	6
<a href="#">Notes to Condensed Consolidated Financial Statements</a>	7
<b>Item 2.</b> <a href="#">Management's Discussion and Analysis of Financial Condition and Results of Operations</a>	21
<b>Item 3.</b> <a href="#">Quantitative and Qualitative Disclosures about Market Risk</a>	27
<b>Item 4.</b> <a href="#">Controls and Procedures</a>	28
<b>PART II. OTHER INFORMATION</b>	29
<b>Item 1.</b> <a href="#">Legal Proceedings</a>	29
<b>Item 2.</b> <a href="#">Unregistered Sales of Equity Securities and Use of Proceeds</a>	29
<b>Item 6.</b> <a href="#">Exhibits</a>	30
<a href="#">Signatures</a>	30

**PART I**  
**FINANCIAL INFORMATION**

**Item 1. Financial Statements (Unaudited).**

**Quaker Chemical Corporation**  
**Condensed Consolidated Balance Sheet**

	<b>Unaudited</b> <b>(Dollars in thousands,</b> <b>except par value</b> <b>and share amounts)</b>	
	<b>June 30,</b> <b>2013</b>	<b>December</b> <b>31, 2012*</b>
<b>ASSETS</b>		
Current assets		
Cash and cash equivalents	\$ 38,546	\$ 32,547
Accounts receivable, net	162,105	154,197
Inventories		
Raw materials and supplies	39,363	40,417
Work-in-process and finished goods	34,660	32,054
Prepaid expenses and other current assets	17,722	18,595
Total current assets	<u>292,396</u>	<u>277,810</u>
Property, plant and equipment, at cost	226,279	225,177
Less accumulated depreciation	<u>(141,137)</u>	<u>(140,065)</u>
Net property, plant and equipment	85,142	85,112
Goodwill	58,334	59,169
Other intangible assets, net	32,806	32,809
Investments in associated companies	16,554	16,603
Deferred income taxes	28,437	30,673
Other assets	35,824	34,458
Total assets	<u>\$ 549,493</u>	<u>\$ 536,634</u>
<b>LIABILITIES AND EQUITY</b>		
Current liabilities		
Short-term borrowings and current portion of long-term debt	\$ 1,337	\$ 1,468
Accounts and other payables	76,191	70,794
Accrued compensation	13,013	16,842
Other current liabilities	25,618	18,688
Total current liabilities	<u>116,159</u>	<u>107,792</u>
Long-term debt	22,550	30,000
Deferred income taxes	6,147	6,383
Other non-current liabilities	92,280	102,783
Total liabilities	<u>237,136</u>	<u>246,958</u>
Equity		
Common stock \$1 par value; authorized 30,000,000 shares; issued and outstanding		
2013 – 13,168,484 shares; 2012 – 13,094,901 shares	13,168	13,095
Capital in excess of par value	97,085	94,470
Retained earnings	238,580	215,390
Accumulated other comprehensive loss	<u>(45,252)</u>	<u>(41,855)</u>
Total Quaker shareholders' equity	<u>303,581</u>	<u>281,100</u>
Noncontrolling interest	<u>8,776</u>	<u>8,576</u>

Total equity	312,357	289,676
Total liabilities and equity	<u>\$ 549,493</u>	<u>\$ 536,634</u>

---

\* Condensed from audited financial statements

*The accompanying notes are an integral part of these condensed consolidated financial statements.*

**Quaker Chemical Corporation**  
**Condensed Consolidated Statement of Income**

	Unaudited			
	(Dollars in thousands, except per share amounts)			
	Three Months Ended June		Six Months Ended June	
	30,		30,	
	2013	2012	2013	2012
Net sales	\$ 184,846	\$ 176,797	\$ 361,039	\$ 354,435
Cost of goods sold	117,532	116,161	231,117	234,004
Gross profit	67,314	60,636	129,922	120,431
Selling, general and administrative expenses	47,521	43,653	92,718	86,746
Operating income	19,793	16,983	37,204	33,685
Other income (expense), net	2,301	(134)	2,647	207
Interest expense	(762)	(1,151)	(1,506)	(2,325)
Interest income	229	137	398	260
Income before taxes and equity in net income of associated companies	21,561	15,835	38,743	31,827
Taxes on income before equity in net income of associated companies	6,828	4,874	10,961	8,319
Income before equity in net income of associated companies	14,733	10,961	27,782	23,508
Equity in net income of associated companies	1,942	777	3,084	1,342
Net income	16,675	11,738	30,866	24,850
Less: Net income attributable to noncontrolling interest	592	630	1,164	1,377
Net income attributable to Quaker Chemical Corporation	<u>\$ 16,083</u>	<u>\$ 11,108</u>	<u>\$ 29,702</u>	<u>\$ 23,473</u>
Per share data:				
Net income attributable to Quaker Chemical Corporation Common				
Shareholders – basic	\$ 1.22	\$ 0.86	\$ 2.26	\$ 1.81
Net income attributable to Quaker Chemical Corporation Common				
Shareholders – diluted	\$ 1.22	\$ 0.85	\$ 2.26	\$ 1.80
Dividends declared	\$ 0.25	\$ 0.245	\$ 0.495	\$ 0.485

*The accompanying notes are an integral part of these condensed consolidated financial statements.*

**Quaker Chemical Corporation**  
**Condensed Consolidated Statement of Comprehensive Income**

	Unaudited			
	(Dollars in thousands, except per share amounts)			
	Three Months Ended June		Six Months Ended June	
	30,		30,	
	2013	2012	2013	2012
Net income	\$ 16,675	\$ 11,738	\$ 30,866	\$ 24,850
Other comprehensive loss, net of tax				
Currency translation adjustments	(4,183)	(7,709)	(5,946)	(3,661)
Defined benefit retirement plans	562	997	1,868	1,054
Current period change in fair value of derivatives	—	103	—	199
Unrealized (loss) gain on available-for-sale securities	(715)	(373)	(283)	705
Other comprehensive loss	(4,336)	(6,982)	(4,361)	(1,703)
Comprehensive income	12,339	4,756	26,505	23,147
Less: comprehensive loss (income) attributable to noncontrolling interest	239	(205)	(200)	(1,243)
Comprehensive income attributable to Quaker Chemical Corporation	<u>\$ 12,578</u>	<u>\$ 4,551</u>	<u>\$ 26,305</u>	<u>\$ 21,904</u>

*The accompanying notes are an integral part of these condensed consolidated financial statements.*

**Quaker Chemical Corporation**  
**Condensed Consolidated Statement of Cash Flows**

	<b>Unaudited</b>	
	<b>(Dollars in thousands)</b>	
	<b>For the Six Months Ended</b>	
	<b>June 30,</b>	
	<b>2013</b>	<b>2012</b>
<b>Cash flows from operating activities</b>		
Net income	\$ 30,866	\$ 24,850
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	6,125	5,969
Amortization	1,763	1,465
Equity in undistributed earnings of associated companies, net of dividends	(1,021)	(1,158)
Deferred compensation and other, net	(1,080)	1,332
Stock-based compensation	2,152	2,078
Gain on disposal of property, plant and equipment	(224)	(13)
Insurance settlement realized	(384)	(808)
Pension and other postretirement benefits	(1,884)	(1,951)
(Decrease) increase in cash from changes in current assets and current liabilities, net of acquisitions:		
Accounts receivable	(9,913)	(7,031)
Inventories	(2,269)	(3,871)
Prepaid expenses and other current assets	(286)	(1,946)
Accounts payable and accrued liabilities	3,650	3,025
Net cash provided by operating activities	<u>27,495</u>	<u>21,941</u>
<b>Cash flows from investing activities</b>		
Investments in property, plant and equipment	(5,202)	(6,423)
Proceeds from disposition of assets	345	84
Payments related to acquisitions, net of cash acquired	(2,478)	—
Insurance settlement interest earned	28	35
Change in restricted cash, net	356	773
Net cash used in investing activities	<u>(6,951)</u>	<u>(5,531)</u>
<b>Cash flows from financing activities</b>		
Repayment of long-term debt	(7,563)	(1,754)
Dividends paid	(6,428)	(6,213)
Stock options exercised, other	84	(925)
Excess tax benefit related to stock option exercises	452	1,420
Distributions to noncontrolling shareholders	—	(30)
Net cash used in financing activities	<u>(13,455)</u>	<u>(7,502)</u>
<b>Effect of exchange rate changes on cash</b>		
Net increase in cash and cash equivalents	5,999	8,343
Cash and cash equivalents at beginning of period	32,547	16,909
Cash and cash equivalents at end of period	<u>\$ 38,546</u>	<u>\$ 25,252</u>
<b>Supplemental cash flow disclosures:</b>		
<b>Non-cash activities:</b>		
Accrued property, plant and equipment purchases	\$ 1,159	\$ —

*The accompanying notes are an integral part of these condensed consolidated financial statements.*



**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

**Note 1 – Condensed Financial Information**

The condensed consolidated financial statements included herein are unaudited and have been prepared in accordance with generally accepted accounting principles in the United States for interim financial reporting and the United States Securities and Exchange Commission regulations. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles in the United States have been condensed or omitted pursuant to such rules and regulations. In the opinion of management, the financial statements reflect all adjustments (consisting only of normal recurring adjustments, except as discussed below) which are necessary for a fair statement of the financial position, results of operations and cash flows for the interim periods. Certain reclassifications of prior year data have been made to improve comparability. The results for the three and six months ended June 30, 2013 are not necessarily indicative of the results to be expected for the full year. These financial statements should be read in conjunction with the Company's Annual Report filed on Form 10-K for the year ended December 31, 2012.

During the first quarter of 2013, the Company adopted the Financial Accounting Standards Board's ("FASB's") guidance regarding the disclosure of reclassifications from Accumulated Other Comprehensive Income (Loss) ("AOCI"). The guidance requires the disclosure of significant amounts reclassified from each component of AOCI, the related tax amounts and the income statement line items affected by the reclassifications, either parenthetically on the Condensed Consolidated Statement of Comprehensive Income or in the Notes to the Condensed Consolidated Financial Statements. The Company elected to present the information in the Notes to the Condensed Consolidated Financial Statements, and the adoption of this guidance did not have a material impact on the Company's results or financial condition. See Note 9 of Notes to Condensed Consolidated Financial Statements.

Effective January 1, 2010, Venezuela's economy was considered to be hyperinflationary under generally accepted accounting principles in the United States, as it had experienced a rate of general inflation in excess of 100% over the latest three-year period, based upon the blended Consumer Price Index and National Consumer Price Index. Accordingly, all gains and losses resulting from the remeasurement of the Company's Venezuelan 50% owned equity affiliate (Kelko Quaker Chemical, S.A.) were required to be recorded directly to the Condensed Consolidated Statement of Income. On January 8, 2010, the Venezuelan government announced the devaluation of the Bolivar Fuerte and the establishment of a two-tiered exchange structure. In February 2013, the Venezuelan Government announced a further devaluation of the Bolivar Fuerte. Accordingly, the Company recorded a charge of approximately \$0.03 per diluted share during the first quarter of 2013.

During 2002 and 2003, the Company's Netherlands and Italian subsidiaries paid excise taxes on mineral oil sales in Italy for a total amount of approximately \$2,000. Alleging that the mineral oil excise tax was contrary to European Union directives, the subsidiaries filed with the Customs' Authority of Milan ("Customs Office" or "Office") requests to obtain a refund of the above-mentioned amount. The parties appealed rulings to various levels of tax courts up through the Supreme Court of Italy. In March 2012, the Supreme Court rejected the appeal of the Customs Office, ruling in favor of the subsidiaries and granting a refund for the amounts requested. After filing an enforcement action, the Company collected approximately \$2,057, along with approximately \$483 of interest, in the second quarter of 2013. This amount was recorded as other income on the Company's Condensed Consolidated Statement of Income in the second quarter of 2013.

During the second quarter of 2012, the Company recorded charges of \$1,156 to its allowance for doubtful accounts and selling, general and administrative expenses ("SG&A") due to the bankruptcies of two U.S. customers. In addition, during the second quarter of 2012, the Company incurred a total charge of approximately \$609 related to CFO transition costs, which were also recorded in SG&A.

As part of the Company's chemical management services, certain third-party product sales to customers are managed by the Company. Where the Company acts as the principal, revenue is recognized on a gross reporting basis at the selling price negotiated with customers. Where the Company acts as an agent, such revenue is recorded using net reporting as service revenues, at the amount of the administrative fee earned by the Company for ordering the goods. Third-party products transferred under arrangements resulting in net reporting totaled \$19,338 and \$20,944 for the six months ended June 30, 2013 and June 30, 2012, respectively.

**Note 2 – Out of Period Adjustment**

As previously disclosed in the Company's 2012 Annual Report on Form 10-K, the Company had reassessed its ability to significantly influence the operating and financial policies of its captive insurance equity affiliate, Primex. Based on its ownership percentage and other factors, the Company determined that, during 2012, the Company obtained the ability to significantly influence Primex and, as a

result, changed its method of accounting from the cost to equity method. During the first quarter of 2013, the Company identified errors in Primex's estimated 2012 financial statements, which primarily related to a reinsurance contract held by Primex. The identified errors resulted in a cumulative \$1,038 understatement of the Company's equity in net income from associated companies for the year ended December 31, 2012. The Company corrected the errors related to Primex in the first quarter of 2013, which had the net effect of increasing equity in net income from associated companies by \$1,038 for the three months ended March 31, 2013 and the six

**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

months ended June 30, 2013. The Company does not believe this adjustment is material to the consolidated financial statements for the year ended December 31, 2012 or to the Company's projected results for the current year and, therefore, has not restated any prior period amounts. As the Company's assessment was based on projected full year 2013 results, the Company will update its assessment at year-end based upon actual 2013 results.

**Note 3 – Income Taxes and Uncertain Income Tax Positions**

The Company's effective tax rate for the first six months of 2013 of 28.3% was higher than the first six months of 2012 effective tax rate of 26.1%. Both effective tax rates reflect decreases in reserves for uncertain tax positions due to the expiration of applicable statutes of limitations for certain tax years of approximately \$0.10 and \$0.12 per diluted share for the six months ended June 30, 2013 and June 30, 2012, respectively. Also contributing to the increase in the effective tax rate is that the tax rate in China was 15% in the first six months of 2012 compared to 25% in the first six months of 2013. While the Company's recertification of its Chinese subsidiary's high tech status is pending, the Company will record tax expense at the current statutory rate of 25%.

As of June 30, 2013, the Company's cumulative liability for gross unrecognized tax benefits was \$11,822. At December 31, 2012, the Company's cumulative liability for gross unrecognized tax benefits was \$12,410.

The Company continues to recognize interest and penalties associated with uncertain tax positions as a component of taxes on income before equity in net income of associated companies in its Condensed Consolidated Statement of Income. The Company recognized \$144 and \$(333) for interest and \$148 and \$241 for penalties on its Condensed Consolidated Statement of Income for the three and six months ended June 30, 2013, respectively, and recognized \$164 and \$(51) for interest and \$99 and \$194 for penalties on its Condensed Consolidated Statement of Income for the three and six months ended June 30, 2012, respectively. As of June 30, 2013, the Company had accrued \$1,931 for cumulative interest and \$1,848 for cumulative penalties compared to \$2,288 for cumulative interest and \$1,630 for cumulative penalties at December 31, 2012.

During the three months ended June 30, 2013, the Company recognized a decrease in its cumulative liability for gross unrecognized tax benefits of approximately \$8 due to the expiration of the applicable statutes of limitations for certain tax years. During the three months ended June 30, 2012, there were no expirations of statutes of limitations for uncertain tax positions.

During the six months ended June 30, 2013, the Company recognized a \$1,695 decrease in its cumulative liability for gross unrecognized tax benefits due to the expiration of the applicable statutes of limitations for certain tax years. During the six months ended June 30, 2012, the Company recognized a \$1,072 decrease in its cumulative liability for gross unrecognized tax benefits due to the expiration of the applicable statutes of limitations for certain tax years.

The Company estimates that during the year ending December 31, 2013 it will reduce its cumulative liability for gross unrecognized tax benefits by approximately \$2,400 to \$2,500 due to the expiration of the statute of limitations with regard to certain tax positions. This estimated reduction in the cumulative liability for unrecognized tax benefits does not consider any increase in liability for unrecognized tax benefits with regard to existing tax positions or any increase in cumulative liability for unrecognized tax benefits with regard to new tax positions for the year ending December 31, 2013.

The Company and its subsidiaries are subject to U.S. Federal income tax, as well as the income tax of various state and foreign tax jurisdictions. Tax years that remain subject to examination by major tax jurisdictions include the Netherlands and the United Kingdom from 2007, Brazil and Spain from 2008, the United States from 2009, China and Italy from 2010, and various domestic state tax jurisdictions from 1993.

In the first quarter of 2013, the Internal Revenue Service ("IRS") initiated a limited scope audit of the Company's 2010 Federal Income Tax Return. By letter dated March 25, 2013, the IRS notified the Company that it had completed the review of the Company's 2010 Federal Income Tax Return without any changes to the reported tax.

During the second quarter of 2012, the Italian tax authorities initiated a transfer pricing audit of the Company's Italian subsidiary. On July 7, 2012, the Company received a preliminary tax report related to this transfer pricing audit, which proposed several adjustments to the taxable income of the subsidiary. During the fourth quarter of 2012, the Company's Italian subsidiary received an assessment for the tax year 2007, which the Company appealed during the first quarter of 2013. On June 24, 2013, a hearing was held before the Provincial Tax Court of Varese, Italy. The Company and outside counsel believe the Company should prevail on the merits of its case. The

Company does not believe it has any exposures warranting an uncertain tax position reserve as of June 30, 2013.

At the end of March 2013, the Chinese tax authorities announced they would be reviewing the original applications of all companies that were certified as high tech enterprises in Shanghai. If the tax authorities find issues with the application, they could disallow the benefits of high tech enterprise status retroactively. The Company currently understands that a retroactive disallowance of the high tech enterprise status would affect only 2012. Currently, no appointment with the tax auditor has been scheduled. The Company does not believe that its status as a high tech enterprise will be revoked and as a result no uncertain tax position has been recorded.

**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

**Note 4 – Fair Value Measurements**

The Company values its company-owned life insurance policies, various deferred compensation assets and liabilities, acquisition-related consideration and an obligation related to a non-competition agreement at fair value. The Company's assets and liabilities subject to fair value measurement are as follows (in thousands):

<u>Assets</u>	Fair Value as of June 30, 2013	Fair Value Measurements at June 30, 2013		
		Using Fair Value Hierarchy		
		Level 1	Level 2	Level 3
Company-owned life insurance	\$ 1,743	\$ —	\$ 1,743	\$ —
Company-owned life insurance - Deferred compensation assets	387	—	387	—
Other deferred compensation assets				
Large capitalization registered investment companies	64	64	—	—
Mid capitalization registered investment companies	6	6	—	—
Small capitalization registered investment companies	11	11	—	—
International developed and emerging markets registered investment companies	34	34	—	—
Fixed income registered investment companies	8	8	—	—
<b>Total</b>	<b>\$ 2,253</b>	<b>\$ 123</b>	<b>\$ 2,130</b>	<b>\$ —</b>

<u>Liabilities</u>	Fair Value as of June 30, 2013	Fair Value Measurements at June 30, 2013		
		Using Fair Value Hierarchy		
		Level 1	Level 2	Level 3
Deferred compensation liabilities				
Large capitalization registered investment companies	\$ 346	\$ 346	\$ —	\$ —
Mid capitalization registered investment companies	94	94	—	—
Small capitalization registered investment companies	78	78	—	—
International developed and emerging markets registered investment companies	176	176	—	—
Fixed income registered investment companies	44	44	—	—
Fixed general account	163	—	163	—
Acquisition-related consideration	5,794	—	—	5,794
<b>Total</b>	<b>\$ 6,695</b>	<b>\$ 738</b>	<b>\$ 163</b>	<b>\$ 5,794</b>

<u>Assets</u>	Fair Value as of December 31, 2012	Fair Value Measurements at December 31, 2012		
		Using Fair Value Hierarchy		
		Level 1	Level 2	Level 3
Company-owned life insurance	\$ 1,653	\$ —	\$ 1,653	\$ —
Company-owned life insurance - Deferred compensation assets	437	—	437	—
Other deferred compensation assets				
Large capitalization registered investment companies	62	62	—	—
Mid capitalization registered investment companies	6	6	—	—

Small capitalization registered investment companies	9	9	—	—
International developed and emerging markets registered investment companies	37	37	—	—
Fixed income registered investment companies	8	8	—	—
Total	<u>\$ 2,212</u>	<u>\$ 122</u>	<u>\$ 2,090</u>	<u>\$ —</u>

**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

<u>Liabilities</u>	<u>Fair Value as of December 31, 2012</u>	<u>Fair Value Measurements at December 31, 2012 Using Fair Value Hierarchy</u>		
		<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Deferred compensation liabilities				
Large capitalization registered investment companies	\$ 336	\$ 336	\$ —	\$ —
Mid capitalization registered investment companies	88	88	—	—
Small capitalization registered investment companies	72	72	—	—
International developed and emerging markets registered investment companies	187	187	—	—
Fixed income registered investment companies	48	48	—	—
Fixed general account	173	—	173	—
Acquisition-related consideration	4,901	—	—	4,901
<b>Total</b>	<b>\$ 5,805</b>	<b>\$ 731</b>	<b>\$ 173</b>	<b>\$ 4,901</b>

The fair values of Company-owned life insurance (“COLI”) and COLI deferred compensation assets are based on quotes for like instruments with similar credit ratings and terms. The fair values of other deferred compensation assets and liabilities are based on quoted prices in active markets. The fair value of the Summit earnout is based on unobservable inputs and is classified as Level 3. Significant inputs and assumptions are management’s estimate of the probability of the earnout ultimately being met/paid and the discount rate used to present value the liability. The fair value of the obligation related to a non-competition agreement is also based on unobservable inputs and is classified as Level 3. The significant inputs and assumptions for the obligation related to the non-competition agreement is management’s estimate of the discount rate used to present value the liability. Significant changes in any Level 3 assumption in isolation would result in increases or decreases to the fair value measurements for the earnout and the obligation related to the non-competition agreement.

Changes in the fair value of the Level 3 liabilities during the six months ended June 30, 2013 were as follows:

	<u>Earnout Summit</u>	<u>Non- competition Agreement Obligation</u>	<u>Total</u>
Balance at December 31, 2012	\$ 4,497	\$ 404	\$ 4,901
Interest accretion	326	17	343
Change in fair value estimate	675	—	675
Payments	—	(125)	(125)
<b>Balance at June 30, 2013</b>	<b>\$ 5,498</b>	<b>\$ 296</b>	<b>\$ 5,794</b>

During the first quarter of 2013, the Summit earnout liability became current and was reclassified from other non-current liabilities to other current liabilities on the Company’s Condensed Consolidated Balance Sheet.

Quantitative information about the Company’s Level 3 fair value measurements at June 30, 2013 were as follows:

	<u>Fair value at June 30, 2013</u>	<u>Valuation technique</u>	<u>Unobservable input</u>	<u>Input value</u>
Summit earnout	5,498	Discounted cash flow	Discount rate	14.5%
Non-competition agreement obligation	296	Discounted cash flow	Discount rate	14.0%

The fair value of the Summit earnout is based on the weighted average probability of the outcome of different payout scenarios. As of June 30, 2013, the probabilities applied to the payout scenarios ranged from 10% to 70%, depending on the Company's estimate of the likelihood of each payout scenario. During the second quarter of 2013, the Company updated the fair value of the Summit earnout, which resulted in other expense and an increase to the liability of approximately \$675.



**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

**Note 5 – Hedging Activities**

The Company utilized interest rate swaps to mitigate the impact of changes in interest rates by converting a portion of the Company's variable interest rate debt to fixed interest rate debt. These interest rate swaps had a combined notional amount of \$15,000 during 2012 until their maturity, which occurred during the third quarter of 2012. The Company had no derivatives designated as cash flow hedges as of December 31, 2012 and did not utilize any during the six months ended June 30, 2013.

Information about the Company's interest rate derivatives is as follows:

**Cash Flow Hedges**  
**Interest Rate Swaps**

	<b>Three Months</b>		<b>Six Months</b>	
	<b>Ended</b>		<b>Ended</b>	
	<b>June 30,</b>		<b>June 30,</b>	
	<b>2013</b>	<b>2012</b>	<b>2013</b>	<b>2012</b>
Amount of Gain Recognized in Accumulated OCI on Derivative (Effective Portion)	\$ —	\$ 103	\$ —	\$ 199
Amount and Location of Gain Reclassified from Accumulated OCI into				
Income (Effective Portion)		Interest Expense		
	\$ —	\$ (160)	\$ —	\$ (318)
Amount and Location of Gain Recognized in Income on Derivative (Ineffective Portion and Amount Excluded from Effectiveness Testing)				
		Other Income		
	\$ —	\$ —	\$ —	\$ —

**Note 6 – Stock-Based Compensation**

The Company recognized the following share-based compensation expense in selling, general and administrative expenses in its Condensed Consolidated Statement of Income for the six months ended June 30, 2013 and the six months ended June 30, 2012:

	<b>For the Six Months Ended</b>	
	<b>June 30,</b>	
	<b>2013</b>	<b>2012</b>
Stock options	\$ 238	\$ 263
Nonvested stock awards and restricted stock units	911	732
Employee stock purchase plan	26	23
Non-elective and elective 401(k) matching contribution in stock	936	1,030
Director stock ownership plan	41	30
Total share-based compensation expense	<u>\$ 2,152</u>	<u>\$ 2,078</u>

As of June 30, 2013 and June 30, 2012, the Company recorded \$452 and \$1,420, respectively, of excess tax benefits in capital in excess of par value on its Condensed Consolidated Balance Sheets, related to stock option exercises. The Company's estimated taxes payable was sufficient to fully recognize these benefits as cash inflows from financing activities in its Condensed Consolidated Statement of Cash Flows, which represented the Company's estimate of cash savings through the six months ended June 30, 2013 and June 30,

2012, respectively.

**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

Stock option activity under all plans is as follows:

	Number of Shares	Weighted Average Exercise Price per Share	Weighted Average Remaining Contractual Term (years)
Options outstanding at December 31, 2012	107,455	\$ 31.23	
Options granted	29,302	58.26	
Options exercised	(23,415)	25.10	
Options forfeited	(3,601)	37.81	
Options expired	(768)	37.37	
Options outstanding at June 30, 2013	<u>108,973</u>	\$ 39.55	5.3
Options exercisable at June 30, 2013	<u>45,562</u>	\$ 28.50	4.3

As of June 30, 2013, the total intrinsic value of options outstanding was approximately \$2,488, and the total intrinsic value of exercisable options was \$1,544. Intrinsic value is calculated as the difference between the current market price of the underlying security and the strike price of a related option.

A summary of the Company's outstanding stock options at June 30, 2013 is as follows:

Range of Exercise Prices	Number Outstanding at 6/30/2013	Weighted Average Contractual Life	Weighted Average Exercise Price	Number Exercisable at 6/30/2013	Weighted Average Exercise Price
\$ 0.00-\$10.00	—	—	\$ —	—	\$ —
\$10.01-\$20.00	22,490	3.6	18.82	22,490	18.82
\$20.01-\$30.00	—	—	—	—	—
\$30.01-\$40.00	54,989	5.2	37.79	22,341	37.66
\$40.01-\$50.00	2,192	6.0	46.21	731	46.21
\$50.01-\$60.00	29,302	6.7	58.26	—	—
	<u>108,973</u>	5.3	39.55	<u>45,562</u>	28.50

As of June 30, 2013, unrecognized compensation expense related to options granted during 2011 was \$98, for options granted during 2012 was \$339 and for options granted in 2013 was \$570.

During the first quarter of 2013, the Company granted stock options under the Company's LTIP plan that are subject only to time vesting over a three-year period. For the purposes of determining the fair value of stock option awards, the Company uses the Black-Scholes option pricing model and the assumptions set forth in the table below:

	<u>2013</u>
Number of options granted	29,302
Dividend yield	2.49 %
Expected volatility	57.28 %
Risk-free interest rate	0.63 %
Expected term (years)	4.0

Approximately \$68 of expense was recorded on these options during the first six months of 2013. The fair value of these awards is amortized on a straight-line basis over the vesting period of the awards.

**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

Activity of nonvested shares granted under the Company's LTIP plan is shown below:

	<b>Number of Shares</b>	<b>Weighted Average Grant Date Fair Value (per share)</b>
Nonvested awards, December 31, 2012	122,944	\$ 31.98
Granted	46,659	\$ 61.00
Vested	(47,481)	\$ 25.03
Forfeited	(4,430)	\$ 40.85
Nonvested awards, June 30, 2013	<u>117,692</u>	\$ 45.95

The fair value of the nonvested stock is based on the trading price of the Company's common stock on the date of grant. The Company adjusts the grant date fair value for expected forfeitures based on historical experience for similar awards. As of June 30, 2013, unrecognized compensation expense related to these awards was \$3,471 to be recognized over a weighted average remaining period of 2.55 years.

Activity of nonvested restricted stock units granted under the Company's LTIP plan is shown below:

	<b>Number of units</b>	<b>Weighted Average Grant Date Fair Value (per unit)</b>
Nonvested awards, December 31, 2012	2,100	\$ 38.13
Granted	1,418	\$ 58.26
Nonvested awards, June 30, 2013	<u>3,518</u>	\$ 46.24

The fair value of the nonvested restricted stock units is based on the trading price of the Company's common stock on the date of grant. The Company adjusts the grant date fair value for expected forfeitures based on historical experience for similar awards. As of June 30, 2013, unrecognized compensation expense related to these awards was \$103 to be recognized over a weighted average remaining period of 2.37 years.

### **Employee Stock Purchase Plan**

In 2000, the Board adopted an Employee Stock Purchase Plan ("ESPP") whereby employees may purchase Company stock through a payroll deduction plan. Purchases are made from the plan and credited to each participant's account at the end of each month, the "Investment Date." The purchase price of the stock is 85% of the fair market value on the Investment Date. The plan is compensatory and the 15% discount is expensed on the Investment Date. All employees, including officers, are eligible to participate in this plan. A participant may withdraw all uninvested payment balances credited to a participant's account at any time. An employee whose stock ownership of the Company exceeds five percent of the outstanding common stock is not eligible to participate in this plan.

### **2013 Director Stock Ownership Plan**

In March 2013, the Company adopted the 2013 Director Stock Ownership Plan (the "Plan"), subject to the approval by the Company's shareholders at the annual meeting, to encourage the Directors to increase their investment in the Company. The Plan was approved at the Company's May 2013 shareholders' meeting. The Plan authorizes the issuance of up to 75,000 shares of Quaker common stock in accordance with the terms of the Plan in payment of all or a portion of the annual cash retainer payable to each of the Company's non-employee directors in 2013 and subsequent years during the term of the Plan. Under the Plan, each director who, on May 1<sup>st</sup> of the applicable calendar year, owns less than 400% of the annual cash retainer for the applicable calendar year, divided by the average of the closing price of a share of Quaker Common Stock as reported by the composite tape of the New York Stock Exchange for the previous calendar year (the "Threshold Amount"), is required to receive 75% of the annual cash retainer in Quaker common stock and 25% of the retainer in cash, unless the director elects to receive a greater percentage of Quaker common stock (up to 100%) of the annual cash

retainer for the applicable year. Each director who owns more than the Threshold Amount may elect to receive common stock in payment of a percentage (up to 100%) of the annual cash retainer. The annual retainer is \$50 and the retainer payment date is June 1. The Plan was adopted in order to replace the 2003 Director Stock Ownership Plan, which expired in May 2013.

**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

**Note 7 – Earnings Per Share**

The following table summarizes earnings per share calculations for the three and six months ended June 30, 2013 and June 30, 2012:

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>June 30,</b>		<b>June 30,</b>	
	<b>2013</b>	<b>2012</b>	<b>2013</b>	<b>2012</b>
<b>Basic earnings per common share</b>				
Net income attributable to Quaker Chemical Corporation	\$ 16,083	\$ 11,108	\$ 29,702	\$ 23,473
Less: income allocated to participating securities	(139)	(106)	(249)	(302)
Net income available to common shareholders	\$ 15,944	\$ 11,002	\$ 29,453	\$ 23,171
Basic weighted average common shares outstanding	13,037,822	12,850,917	13,019,991	12,790,799
<b>Basic earnings per common share</b>	<b>\$ 1.22</b>	<b>\$ 0.86</b>	<b>\$ 2.26</b>	<b>\$ 1.81</b>
<b>Diluted earnings per common share</b>				
Net income attributable to Quaker Chemical Corporation	\$ 16,083	\$ 11,108	\$ 29,702	\$ 23,473
Less: income allocated to participating securities	(138)	(106)	(248)	(301)
Net income available to common shareholders	\$ 15,945	\$ 11,002	\$ 29,454	\$ 23,172
Basic weighted average common shares outstanding	13,037,822	12,850,917	13,019,991	12,790,799
Effect of dilutive securities and employee stock options	24,918	80,913	27,314	88,838
Diluted weighted average common shares outstanding	13,062,740	12,931,830	13,047,305	12,879,637
<b>Diluted earnings per common share</b>	<b>\$ 1.22</b>	<b>\$ 0.85</b>	<b>\$ 2.26</b>	<b>\$ 1.80</b>

The following number of stock options are not included in diluted earnings per share since the effect would have been anti-dilutive: 6,170 and 9,917 for the three months ended June 30, 2013 and June 30, 2012, respectively, and 4,520 and 7,859 for the six months ended June 30, 2013 and June 30, 2012, respectively.

**Note 8 – Business Segments**

The following table presents information about the Company's reported segments for the three and six months ended June 30, 2013 and June 30, 2012:

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>June 30,</b>		<b>June 30,</b>	
	<b>2013</b>	<b>2012</b>	<b>2013</b>	<b>2012</b>
<b>Metalworking Process Chemicals</b>				
Net sales	\$ 172,241	\$ 165,011	\$ 337,177	\$ 330,986
Operating income for reportable segment	34,121	30,649	66,148	61,624
<b>Coatings</b>				
Net sales	12,185	10,950	22,931	21,473
Operating income for reportable segment	3,616	2,799	6,122	5,312
<b>Other Chemical Products</b>				
Net sales	420	836	931	1,976
Operating (loss) income for reportable segment	(33)	53	(54)	195
<b>Total</b>				
Net sales	184,846	176,797	361,039	354,435
Operating income for reportable segments	37,704	33,501	72,216	67,131
Non-operating expenses	(17,027)	(15,799)	(33,249)	(31,981)
Amortization expense	(884)	(719)	(1,763)	(1,465)
Consolidated operating income	19,793	16,983	37,204	33,685
Interest expense	(762)	(1,151)	(1,506)	(2,325)
Interest income	229	137	398	260
Other income (expense), net	2,301	(134)	2,647	207

Consolidated income before taxes and equity in net income of  
associated companies

\$ 21,561   \$ 15,835   \$ 38,743   \$ 31,827

Operating income is comprised of revenue less related costs and expenses. Non-operating items primarily consist of general corporate expenses identified as not being a cost of operation, interest expense, interest income, and license fees from non-consolidated affiliates.



**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

**Note 9 – Equity and Noncontrolling Interest**

The following table presents the changes in equity and noncontrolling interest for the three and six months ended June 30, 2013 and June 30, 2012:

	Common Stock	Capital in Excess of Par Value	Retained Earnings	Accumulated Other Comprehensive Loss	Noncontrolling Interest	Total
<b>Balance at March 31, 2013</b>	\$ 13,140	\$ 95,775	\$ 225,790	\$ (41,747)	\$ 9,015	\$ 301,973
Net income	—	—	16,083	—	592	16,675
Amounts reported in other comprehensive income	—	—	—	(3,505)	(831)	(4,336)
Dividends (\$0.25 per share)	—	—	(3,293)	—	—	(3,293)
Share issuance and equity-based compensation plans	28	1,227	—	—	—	1,255
Excess tax benefit from stock option exercises	—	83	—	—	—	83
<b>Balance at June 30, 2013</b>	<u>\$ 13,168</u>	<u>\$ 97,085</u>	<u>\$ 238,580</u>	<u>\$ (45,252)</u>	<u>\$ 8,776</u>	<u>\$ 312,357</u>
<b>Balance at March 31, 2012</b>	\$ 12,951	\$ 90,836	\$ 189,961	\$ (23,979)	\$ 8,015	\$ 277,784
Net income	—	—	11,108	—	630	11,738
Amounts reported in other comprehensive income	—	—	—	(6,557)	(425)	(6,982)
Dividends (\$0.245 per share)	—	—	(3,188)	—	—	(3,188)
Dividends paid to noncontrolling shareholders	—	—	—	—	(30)	(30)
Share issuance and equity-based compensation plans	60	1,195	—	—	—	1,255
Excess tax benefit from stock option exercises	—	168	—	—	—	168
<b>Balance at June 30, 2012</b>	<u>\$ 13,011</u>	<u>\$ 92,199</u>	<u>\$ 197,881</u>	<u>\$ (30,536)</u>	<u>\$ 8,190</u>	<u>\$ 280,745</u>
	Common Stock	Capital in Excess of Par Value	Retained Earnings	Accumulated Other Comprehensive Loss	Noncontrolling Interest	Total
<b>Balance at December 31, 2012</b>	\$ 13,095	\$ 94,470	\$ 215,390	\$ (41,855)	\$ 8,576	\$ 289,676
Net income	—	—	29,702	—	1,164	30,866
Amounts reported in other comprehensive income	—	—	—	(3,397)	(964)	(4,361)
Dividends (\$0.495 per share)	—	—	(6,512)	—	—	(6,512)
Share issuance and equity-based compensation plans	73	2,163	—	—	—	2,236
Excess tax benefit from stock option exercises	—	452	—	—	—	452
<b>Balance at June 30, 2013</b>	<u>\$ 13,168</u>	<u>\$ 97,085</u>	<u>\$ 238,580</u>	<u>\$ (45,252)</u>	<u>\$ 8,776</u>	<u>\$ 312,357</u>
<b>Balance at December 31, 2011</b>	\$ 12,912	\$ 89,725	\$ 180,710	\$ (28,967)	\$ 6,977	\$ 261,357
Net income	—	—	23,473	—	1,377	24,850
Amounts reported in other comprehensive income	—	—	—	(1,569)	(134)	(1,703)

Dividends (\$0.485 per share)	—	—	(6,302)	—	—	(6,302)
Dividends paid to noncontrolling interests	—	—	—	—	(30)	(30)
Share issuance and equity-based compensation plans	99	1,054	—	—	—	1,153
Excess tax benefit from stock option exercises	—	1,420	—	—	—	1,420
<b>Balance at June 30, 2012</b>	<u>\$ 13,011</u>	<u>\$ 92,199</u>	<u>\$ 197,881</u>	<u>\$ (30,536)</u>	<u>\$ 8,190</u>	<u>\$ 280,745</u>

**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

The following tables show the reclassifications from and resulting balances of accumulated other comprehensive loss for the three and six months ended June 30, 2013 and June 30, 2012:

	Currency translation adjustments	Defined benefit pension plans	Change in fair value of derivatives	Unrealized gain (loss) in available- for- sale securities	Total
<b>Balance at March 31, 2013</b>	\$ 1,706	\$ (45,608)	\$ —	\$ 2,155	\$ (41,747)
Other comprehensive (loss) income before reclassifications	(3,352)	(214)	—	(289)	(3,855)
Amounts reclassified from accumulated other comprehensive loss	—	1,065	—	(795)	270
Current period other comprehensive (loss) income	(3,352)	851	—	(1,084)	(3,585)
Related tax amounts	—	(289)	—	369	80
Net current period other comprehensive (loss) income	(3,352)	562	—	(715)	(3,505)
<b>Balance at June 30, 2013</b>	<u>\$ (1,646)</u>	<u>\$ (45,046)</u>	<u>\$ —</u>	<u>\$ 1,440</u>	<u>\$ (45,252)</u>
<b>Balance at March 31, 2012</b>	\$ 8,466	\$ (34,203)	\$ (176)	\$ 1,934	\$ (23,979)
Other comprehensive (loss) income before reclassifications	(7,284)	668	(2)	(248)	(6,866)
Amounts reclassified from accumulated other comprehensive loss	—	747	160	(318)	589
Current period other comprehensive (loss) income	(7,284)	1,415	158	(566)	(6,277)
Related tax amounts	—	(418)	(55)	193	(280)
Net current period other comprehensive (loss) income	(7,284)	997	103	(373)	(6,557)
<b>Balance at June 30, 2012</b>	<u>\$ 1,182</u>	<u>\$ (33,206)</u>	<u>\$ (73)</u>	<u>\$ 1,561</u>	<u>\$ (30,536)</u>

	Currency translation adjustments	Defined benefit pension plans	Change in fair value of derivatives	Unrealized gain (loss) in available- for- sale securities	Total
<b>Balance at December 31, 2012</b>	\$ 3,336	\$ (46,914)	\$ —	\$ 1,723	\$ (41,855)
Other comprehensive (loss) income before reclassifications	(4,982)	549	—	859	(3,574)
Amounts reclassified from accumulated other comprehensive loss	—	2,120	—	(1,288)	832
Current period other comprehensive (loss) income	(4,982)	2,669	—	(429)	(2,742)
Related tax amounts	—	(801)	—	146	(655)
Net current period other comprehensive (loss) income	(4,982)	1,868	—	(283)	(3,397)

<b>Balance at June 30, 2013</b>	<u>\$ (1,646)</u>	<u>\$ (45,046)</u>	<u>\$ —</u>	<u>\$ 1,440</u>	<u>\$ (45,252)</u>
<b>Balance at December 31, 2011</b>	\$ 4,709	\$ (34,260)	\$ (272)	\$ 856	\$ (28,967)
Other comprehensive (loss) income before reclassifications	(3,527)	106	(12)	1,589	(1,844)
Amounts reclassified from accumulated other comprehensive loss	—	1,497	318	(521)	1,294
Current period other comprehensive (loss) income	(3,527)	1,603	306	1,068	(550)
Related tax amounts	—	(549)	(107)	(363)	(1,019)
Net current period other comprehensive (loss) income	<u>(3,527)</u>	<u>1,054</u>	<u>199</u>	<u>705</u>	<u>(1,569)</u>
<b>Balance at June 30, 2012</b>	<u>\$ 1,182</u>	<u>\$ (33,206)</u>	<u>\$ (73)</u>	<u>\$ 1,561</u>	<u>\$ (30,536)</u>

Approximately 28% and 72% of the amounts reclassified from accumulated other comprehensive loss to the Condensed Consolidated Statement of Income for defined benefit retirement plans during the three and six months ended June 30, 2013 and June 30, 2012 were recorded in cost of goods sold and SG&A, respectively. See Note 13 of Notes to Condensed Consolidated Financial Statements for further information. All reclassifications are recorded in interest expense for changes in fair value of derivatives and, also, reclassifications related to unrealized gain (loss) in available-for-sale securities relate to the Company's equity interest in a captive insurance company and are recorded in equity in net income of associated companies. The amounts reported in other comprehensive income for non-controlling interest are related to currency translation adjustments.

**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

**Note 10 – Debt**

As discussed in the Current Report on Form 8-K filed on June 17, 2013, the Company entered into a revised syndicated multicurrency credit facility on June 14, 2013, which amends and replaces the Company's previous credit facility with Bank of America, N.A. and certain other major financial institutions. The revised facility increases the maximum principal amount available for revolving credit borrowings from \$175,000 to \$300,000, which can be increased to \$400,000 at the Company's option if the lenders agree and the Company satisfies certain conditions. This facility matures in June 2018. In addition, the revised facility amends certain financial, acquisition and other covenants, but the consolidated leverage ratio calculation, for which access to credit under the former facility largely depended upon, remains relatively consistent and cannot exceed 3.50 to 1. At June 30, 2013 and December 31, 2012, the consolidated leverage ratio was below 1.0 to 1 and the Company was also in compliance with all of the other covenants. At June 30, 2013 and December 31, 2012, the Company had approximately \$5,000 and \$12,200 outstanding under this revised facility and the Company's former facility, respectively.

**Note 11 – Business Acquisitions**

In May 2013, the Company acquired a business that primarily relates to tin plating for its metalworking process chemicals segment for net consideration of approximately \$1,831. The Company allocated \$830 of intangible assets, comprised of formulations, to be amortized over 10 years; a non-competition agreement, to be amortized over 4 years; and a customer list, to be amortized over 10 years. In addition, the Company recorded \$277 of goodwill, all of which will be tax deductible. The remaining purchase price was allocated between the acquisition date fair value of inventory purchased of \$454 and fixed assets purchased of \$270.

In January 2013, the Company acquired a distribution network for its chemical milling maskants business related to its Coatings segment for net consideration of approximately \$647. The Company also assumed an additional \$100 hold-back of consideration liability to be paid to the former owners at one year from the acquisition date. The acquired intangible was included with the Company's customer lists and rights to sell intangible assets and will be amortized over 5 years.

In July 2012, the Company acquired NP Coil Dexter Industries, S.r.l. for approximately \$2,748, including short-term debt and long-term debt of approximately \$1,186 and \$854, respectively. NP Coil Dexter is a European manufacturer and supplier of metal surface treatment products. The Company allocated \$3,825 of intangible assets, comprised of trademarks and formulations, to be amortized over 10 years; two customer lists to be amortized over 8 and 4 years, respectively; and a non-competition agreement to be amortized over 5 years. In addition, the Company recorded \$1,786 of goodwill, none of which will be tax deductible and was assigned to the metalworking process chemical segment. At June 30, 2013, the valuation of the assets acquired and the liabilities assumed at the acquisition date was finalized. Liabilities assumed include a hold-back of consideration to be paid to the former shareholders at eighteen months from the acquisition date. During the fourth quarter of 2012, the Company recorded an increase to other income of approximately \$1,033 on its Consolidated Statement of Income related to a change in the fair value of this hold-back of consideration liability.

The following table shows the allocation of the purchase price of the assets and liabilities:

<b>2012 Acquisitions</b>	<b>NP Coil Dexter Industries S.r.l.</b>
Current assets	\$ 5,536
Fixed assets	1,211
Intangibles	3,825
Goodwill	1,786
Other long-term assets	783
Total assets purchased	13,141
Short-term debt	(1,186)
Other current liabilities	(6,168)
Long-term debt	(854)
Other long-term liabilities	(1,258)
Present value of hold-back	(927)
Total liabilities assumed	(10,393)

Cash paid for an acquisition	\$ 2,748
------------------------------	----------

Included in the 2012 acquisition of NP Coil Dexter Industries, S.r.l. was approximately \$113 of cash acquired. Certain pro forma and other disclosures have not been provided for this acquisition because the effects were not material.

**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

**Note 12 – Goodwill and Other Intangible Assets**

The changes in carrying amount of goodwill for the six months ended June 30, 2013 are as follows and the Company has recorded no impairment charges in the past:

	<b>Metalworking Process</b>		
	<b>Chemicals</b>	<b>Coatings</b>	<b>Total</b>
Balance as of December 31, 2012	\$ 51,088	\$ 8,081	\$59,169
Goodwill additions	277	—	277
Currency translation adjustments	(1,112)	—	(1,112)
Balance as of June 30, 2013	<u>\$ 50,253</u>	<u>\$ 8,081</u>	<u>\$58,334</u>

Gross carrying amounts and accumulated amortization for definite-lived intangible assets as of June 30, 2013 and December 31, 2012 are as follows:

	<b>Gross Carrying Amount</b>		<b>Accumulated Amortization</b>	
	<b>2013</b>	<b>2012</b>	<b>2013</b>	<b>2012</b>
<b><u>Amortized intangible assets</u></b>				
Customer lists and rights to sell	\$33,489	\$32,356	\$ 9,198	\$ 8,192
Trademarks and patents	6,736	6,760	2,870	2,548
Formulations and product technology	5,808	5,278	3,580	3,423
Other	5,535	5,467	4,214	3,989
Total	<u>\$51,568</u>	<u>\$49,861</u>	<u>\$19,862</u>	<u>\$18,152</u>

The Company recorded \$1,763 and \$1,465 of amortization expense in the six months ended June 30, 2013 and June 30, 2012, respectively. Estimated annual aggregate amortization expense for the current year and subsequent five years is as follows:

For the year ended December 31, 2013	\$3,448
For the year ended December 31, 2014	\$3,257
For the year ended December 31, 2015	\$3,257
For the year ended December 31, 2016	\$2,776
For the year ended December 31, 2017	\$ 2,111
For the year ended December 31, 2018	\$ 2,088

The Company has two indefinite-lived intangible assets totaling \$1,100 for trademarks at June 30, 2013.

**Note 13 – Pension and Other Postretirement Benefits**

The components of net periodic benefit cost for the three and six months ended June 30, 2013 and June 30, 2012 are as follows:

	<b>Three Months Ended June 30,</b>				<b>Six Months Ended June 30,</b>			
	<b>Pension Benefits</b>		<b>Other Postretirement Benefits</b>		<b>Pension Benefits</b>		<b>Other Postretirement Benefits</b>	
	<b>2013</b>	<b>2012</b>	<b>2013</b>	<b>2012</b>	<b>2013</b>	<b>2012</b>	<b>2013</b>	<b>2012</b>
Service cost	\$ 728	\$ 614	\$ 4	\$ 5	\$ 1,566	\$ 1,238	\$ 17	\$ 9

Interest cost and other	1,398	1,457	36	71	2,778	2,927	92	142
Expected return on plan assets	(1,463)	(1,368)	—	—	(2,941)	(2,743)	—	—
Actuarial loss amortization	991	689	(31)	30	1,972	1,380	16	61
Prior service cost amortization	104	28	—	—	132	56	—	—
Net periodic benefit cost	<u>\$ 1,758</u>	<u>\$ 1,420</u>	<u>\$ 9</u>	<u>\$ 106</u>	<u>\$ 3,507</u>	<u>\$ 2,858</u>	<u>\$ 125</u>	<u>\$ 212</u>



**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

Employer Contributions:

The Company previously disclosed in its financial statements for the year ended December 31, 2012, that it expected to make minimum cash contributions of \$6,610 to its pension plans and \$719 to its other postretirement benefit plan in 2013. As of June 30, 2013, \$5,240 and \$352 of contributions had been made to the Company's pension plans and its other postretirement benefit plans, respectively.

**Note 14 – Commitments and Contingencies**

In April of 1992, the Company identified certain soil and groundwater contamination at AC Products, Inc. ("ACP"), a wholly owned subsidiary. In voluntary coordination with the Santa Ana California Regional Water Quality Board ("SACRWQB"), ACP has been remediating the contamination, the principal contaminant of which is perchloroethylene ("PERC"). On or about December 18, 2004, the Orange County Water District ("OCWD") filed a civil complaint in Superior Court in Orange County, California against ACP and other parties potentially responsible for groundwater contamination. OCWD was seeking to recover compensatory and other damages related to the investigation and remediation of the contamination in the groundwater. Effective October 17, 2007, ACP and OCWD settled all claims related to this litigation. Pursuant to the settlement agreement with OCWD, ACP agreed to pay \$2,000. In addition to the \$2,000 payment, ACP agreed to operate the two existing groundwater treatment systems associated with its extraction wells P-2 and P-3 so as to hydraulically contain groundwater contamination emanating from ACP's site until such time as the concentrations of PERC are below the current Federal maximum contaminant level for four consecutive quarterly sampling events. On September 11, 2012, ACP received a letter from the SACRWQB advising that no further action is required to remediate the soil contamination on site. As of June 30, 2013, the Company believes that the range of potential-known liabilities associated with the ACP water remediation program is approximately \$600 to \$1,000, for which the Company has sufficient reserves.

The low and high ends of the range are based on the length of operation of the two extraction wells as determined by groundwater modeling with planned higher maintenance costs in later years if a longer treatment period is required. Costs of operation include the operation and maintenance of the extraction wells, groundwater monitoring and program management. The duration of the well operation was estimated based on historical trends in concentrations in the monitoring wells within the proximity of the applicable extraction wells. Also factored into the model was the impact of water injected into the underground aquifer from a planned water treatment system to be installed by OCWD adjacent to P-2. Based on the modeling, it is estimated that P-2 will operate for another one and one-quarter to two and one-half years. The Company is in the process of closing P-3. Operation and maintenance costs were based on historical expenditures and estimated inflation. As mentioned above, a significantly higher maintenance expense was factored into the range if the system operates for the longer period.

The Company believes, although there can be no assurance regarding the outcome of other unrelated environmental matters, that it has made adequate accruals for costs associated with other environmental problems of which it is aware. Approximately \$205 and \$230 was accrued at June 30, 2013 and December 31, 2012, respectively, to provide for such anticipated future environmental assessments and remediation costs.

An inactive subsidiary of the Company that was acquired in 1978 sold certain products containing asbestos, primarily on an installed basis, and is among the defendants in numerous lawsuits alleging injury due to exposure to asbestos. The subsidiary discontinued operations in 1991 and has no remaining assets other than the proceeds from insurance settlements received. To date, the overwhelming majority of these claims have been disposed of without payment and there have been no adverse judgments against the subsidiary. Based on a continued analysis of the existing and anticipated future claims against this subsidiary, it is currently projected that the subsidiary's total liability over the next 50 years for these claims is approximately \$3,300 (excluding costs of defense). Although the Company has also been named as a defendant in certain of these cases, no claims have been actively pursued against the Company, and the Company has not contributed to the defense or settlement of any of these cases pursued against the subsidiary. These cases were handled by the subsidiary's primary and excess insurers who had agreed in 1997 to pay all defense costs and be responsible for all damages assessed against the subsidiary arising out of existing and future asbestos claims up to the aggregate limits of the policies. A significant portion of this primary insurance coverage was provided by an insurer that is now insolvent, and the other primary insurers have asserted that the aggregate limits of their policies have been exhausted. The subsidiary challenged the applicability of these limits to the claims being brought against the subsidiary. In response, two of the three carriers entered into separate settlement and release agreements with the subsidiary in late 2005 and early 2007 for \$15,000 and \$20,000, respectively. The proceeds of both settlements are restricted and can only be used to pay claims and costs of defense associated with the subsidiary's asbestos litigation. During the third quarter of 2007, the subsidiary and the remaining primary insurance carrier entered into a Claim Handling and Funding Agreement, under which the carrier will pay 27% of defense and indemnity costs incurred by or on behalf of the subsidiary in connection with

asbestos bodily injury claims for a minimum of five years beginning July 1, 2007. The agreement continues until terminated and can only be terminated by either party by providing the other party with a minimum of two years prior written notice. As of June 30, 2013, no notice of termination has been given under this agreement. At the end of the term of the agreement, the subsidiary may choose to again pursue its claim against this insurer regarding the application of the policy limits. The Company also believes that, if the coverage issues under the primary policies with the remaining carrier are resolved adversely to the subsidiary and all settlement proceeds were used, the subsidiary may have limited additional coverage from a state guarantee fund established following the insolvency of one of the subsidiary's primary insurers. Nevertheless, liabilities in respect of claims may exceed the assets and coverage available to the subsidiary.

**Quaker Chemical Corporation**  
**Notes to Condensed Consolidated Financial Statements - Continued**  
**(Dollars in thousands, except per share amounts)**  
**(Unaudited)**

If the subsidiary's assets and insurance coverage were to be exhausted, claimants of the subsidiary may actively pursue claims against the Company because of the parent-subsidary relationship. Although asbestos litigation is particularly difficult to predict, especially with respect to claims that are currently not being actively pursued against the Company, the Company does not believe that such claims would have merit or that the Company would be held to have liability for any unsatisfied obligations of the subsidiary as a result of such claims. After evaluating the nature of the claims filed against the subsidiary and the small number of such claims that have resulted in any payment, the potential availability of additional insurance coverage at the subsidiary level, the additional availability of the Company's own insurance and the Company's strong defenses to claims that it should be held responsible for the subsidiary's obligations because of the parent-subsidary relationship, the Company believes it is not probable that the Company will incur any material losses. All of the asbestos cases pursued against the Company challenging the parent-subsidary relationship are in the early stages of litigation. The Company has been successful to date having claims naming it dismissed during initial proceedings. Since the Company may be in this early stage of litigation for some time, it is not possible to estimate additional losses or range of loss, if any.

As initially disclosed in the Company's second quarter 2010 Form 10-Q, one of the Company's subsidiaries may have paid certain value-added-taxes ("VAT") incorrectly and, in certain cases, may not have collected sufficient VAT from certain customers. The VAT rules and regulations at issue are complex, vary among the jurisdictions and can be contradictory, in particular as to how they relate to the subsidiary's products and to sales between jurisdictions.

Since its inception, the subsidiary had been consistent in its VAT collection and remittance practices and had never been contacted by any tax authority relative to VAT. Now the subsidiary has determined that for certain products, a portion of the VAT was incorrectly paid and that the total VAT due exceeds the amount originally collected and remitted by the subsidiary. In 2010, three jurisdictions contacted the subsidiary and, since then, the subsidiary has either participated in an amnesty program or entered into a settlement whereby it paid a reduced portion of the amounts owed in resolution of those jurisdictions' claims. The subsidiary has modified its VAT invoicing and payment procedures to eliminate or mitigate future exposure.

In analyzing the subsidiary's exposure, it is difficult to estimate both the probability and the amount of any potential liabilities due to a number of factors, including: the decrease in exposure over time due to applicable statutes of limitations and actions taken by the subsidiary, the joint liability of customers and suppliers for a portion of the VAT, the availability of a VAT refund for VAT incorrectly paid through an administrative process, any amounts which may have been or will be paid by customers, as well as the timing and structure of any tax amnesties or settlements. In addition, interest and penalties on any VAT due can be a multiple of the base tax. The subsidiary may contest any tax assessment administratively and/or judicially for an extended period of time, but may ultimately resolve its disputes through participation in tax amnesty programs, which are a common practice for settling tax disputes in the jurisdictions in question and which have historically occurred on a regular basis, resulting in significant reductions of interest and penalties. Also, the timing of payments and refunds of VAT may not be contemporaneous, and, if additional VAT is owed, it may not be fully recoverable from customers. As a result, this matter has the potential to have a material adverse impact on the Company's financial position, liquidity and capital resources and the results of operations.

In 2010, the Company recorded a net charge of \$4,132, which consisted of a net \$3,901 charge related to two tax dispute settlements entered into by the subsidiary, as well as a net \$231 charge representing management's best estimate based on the information available to it, including the factors noted above, of the amount that ultimately may be paid related to the other jurisdiction that has made inquiries. At June 30, 2013 and December 31, 2012, the Company had no accrual for remaining payments to be made under tax dispute settlements entered into by the subsidiary, as the respective accruals noted above were paid.

The charges taken by the Company in 2010 assume a successful recovery of the VAT incorrectly paid, as well as reductions in interest and penalties from anticipated future amnesty programs or settlements. On a similar basis, if all other potentially impacted jurisdictions were to initiate audits and issue assessments, the remaining exposure, net of refunds, could be from \$0 to \$12,000 with one jurisdiction representing approximately 82 percent of this additional exposure, assuming the continued availability of future amnesty programs or settlements to reduce the interest and penalties. If there are future assessments but no such future amnesty programs or settlements, the potential exposure could be higher.

The Company is party to other litigation which management currently believes will not have a material adverse effect on the Company's results of operations, cash flows or financial condition.



## **Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

### **Executive Summary**

Quaker Chemical Corporation is a leading global provider of process fluids, chemical specialties, and technical expertise to a wide range of industries, including steel, aluminum, automotive, mining, aerospace, tube and pipe, cans, and others. For nearly 100 years, Quaker has helped customers around the world achieve production efficiency, improve product quality, and lower costs through a combination of innovative technology, process knowledge, and customized services. Headquartered in Conshohocken, Pennsylvania USA, Quaker serves businesses worldwide with a network of dedicated and experienced professionals whose mission is to make a difference.

The Company's revenue increase of approximately 5% in the second quarter of 2013 compared to the second quarter of 2012 was primarily due to volume increases, including acquisitions, partially offset by a slight decrease due to selling and price mix, while foreign exchange rate translation remained relatively consistent with the second quarter of 2012. Gross profit increased approximately \$6.7 million, or approximately 11%, from the second quarter of 2012, with gross margin improving from 34.3% in the second quarter of 2012 to 36.4% in the second quarter of 2013, reflecting the Company's product margins' return to more acceptable levels. Selling, general and administrative expenses ("SG&A") increased approximately \$3.9 million compared to the second quarter of 2012, primarily due to increased costs related to acquisitions, higher incentive compensation and higher selling, inflationary and other labor related costs. Also, included in SG&A for the second quarter of 2013 was an expense of \$0.4 million, or \$0.02 per diluted share, which related to actions taken to streamline costs of certain business operations. Included in the second quarter of 2012 were charges of \$1.2 million, or \$0.06 per diluted share, associated with the bankruptcies of certain U.S. customers and \$0.6 million, or \$0.03 per diluted share, related to the transition of the Company's CFO.

Included in the Company's other income in the second quarter of 2013 is a refund of \$2.5 million, or \$0.14 per diluted share, of excise taxes paid on certain mineral oils sales. See Note 1 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Part I. Partially offsetting this increase to other income during the second quarter of 2013 was the increase in an acquisition related earnout liability of \$0.7 million, or \$0.03 per diluted share. See Note 4 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Part I.

During the first six months of 2013, net operating cash flow was approximately \$27.5 million, up from \$21.9 million in the first six months of 2012, on increased net income and improved working capital management. In addition, the Company's credit facility was revised during the second quarter of 2013, increasing the amount available for borrowings from \$175.0 million to \$300.0 million.

The net result was an increase in earnings per diluted share from \$0.85 for the second quarter of 2012 to \$1.22 for the second quarter of 2013, with non-GAAP earnings per diluted share increasing from \$0.90 for the second quarter of 2012 to \$1.00 for the second quarter of 2013. See Non-GAAP Measures section in this Item below. Overall, the Company's results for the first six months of 2013 have been positively impacted by the Company's market share gains and recent acquisitions, which have contributed to its increased volumes and revenues. The Company is further encouraged by its solid performance in the first half of 2013 given the weak economic conditions that numerous parts of the world have been experiencing. Looking forward to the second half of 2013, the Company expects the global environment to remain challenging, with potential increases to raw material costs throughout some regions. However, the Company remains optimistic about its future and still expects 2013 to be another good year for Quaker. In addition, the Company's strong liquidity and balance sheet position, along with the added financial flexibility from its revised credit facility, continue to provide opportunities for the Company to seek strategic growth opportunities, including acquisitions.

### **CMS Discussion**

The Company currently has numerous CMS contracts around the world. Under its traditional CMS approach, the Company effectively acts as an agent, and the revenues and costs from these sales are reported on a net sales or "pass-through" basis. Under an alternative structure for certain contracts, the contracts are structured differently in that the Company's revenue received from the customer is a fee for products and services provided to the customer, which are indirectly related to the actual costs incurred. Profit is dependent on how well the Company controls product costs and achieves product conversions from other third-party suppliers' products to its own products. As a result, under the alternative structure, the Company recognizes, in reported revenue, the gross revenue received from the CMS site customer and in cost of goods sold the third-party product purchases, which substantially offset each other until the Company achieves significant product conversions. This may result in a decrease in reported gross margin as a percentage of sales.

The Company has maintained a mix of CMS contracts with both the traditional product pass-through structure and the alternative structure, including fixed price contracts that cover all services and products. Since the global economic downturn and its impact on the

automotive sector, the Company has experienced shifts in customer requirements and business circumstances, but the Company's offerings continue to include both approaches to CMS.

**Liquidity and Capital Resources**

Quaker's cash and cash equivalents increased to \$38.5 million at June 30, 2013 from \$32.5 million at December 31, 2012. The \$6.0 million increase was the result of \$27.5 million provided by operating activities, partially offset by \$6.9 million used in investing activities, \$13.5 million used in financing activities and a \$1.1 million decrease from the effect of exchange rates on cash.

## [Table of Contents](#)

Net cash flows provided by operating activities were \$27.5 million in the first six months of 2013 compared to \$21.9 million provided by operating activities in the first six months of 2012. The \$5.6 million increase in operating cash flow was primarily driven by the Company's increased net income, improved working capital management and the Company's first dividend distribution from its captive insurance equity affiliate of \$2.0 million, partially offset by fees related to the Company's revised credit facility, discussed below.

Net cash flows used in investing activities were \$6.9 million in the first six months of 2013 compared to \$5.5 million used in the first six months of 2012. The \$1.4 million increase in cash used in investing activities was primarily the result of higher payments in the first six months of 2013 to acquire a chemical milling maskants distribution network for the Company's coatings segment and a business that primary relates to tin plating for the Company's metalworking process chemicals segment. Higher payments related to acquisitions were partially offset by lower investments in property, plant and equipment, as there were higher payments related to the Company's information technology infrastructure in the first six months of 2012, partially offset by increased investments in its Asia/Pacific facilities in the first six months of 2013.

Net cash flows used in financing activities were \$6.0 million higher, increasing from the \$7.5 million used in the first six months of 2012 to \$13.5 million used in the first six months of 2013. In both the first six months of 2013 and the first six months of 2012, the Company was able to leverage strong operating cash flow to fund its investing and financing activities, and, also, repay portions of its revolving credit line. However, the Company's increased net operating cash flow in the first six months of 2013 provided it the ability to repay approximately \$5.8 million more on its revolving credit line compared to the amount repaid in the first six months of 2012. Also, higher dividend payments and stock option activity affected the financing cash flow comparisons.

As discussed in the Current Report on Form 8-K filed on June 17, 2013, the Company entered into a revised syndicated multicurrency credit facility on June 14, 2013, which amends and replaces the Company's previous credit facility with Bank of America, N.A. and certain other major financial institutions. The revised facility increases the maximum principal amount available for revolving credit borrowings from \$175.0 million to \$300.0 million, which can be increased to \$400.0 million at the Company's option if the lenders agree and the Company satisfies certain conditions. This facility matures in June 2018. In addition, the revised facility amends certain financial, acquisition and other covenants, but the consolidated leverage ratio calculation, for which access to credit under the former facility largely depended upon, remains relatively consistent and cannot exceed 3.50 to 1. At June 30, 2013 and December 31, 2012, the consolidated leverage ratio was below 1.0 to 1 and the Company was also in compliance with all of the other covenants. At June 30, 2013 and December 31, 2012, the Company had approximately \$5.0 million and \$12.2 million outstanding under this revised facility and the Company's former facility, respectively.

During 2002 and 2003, the Company's Netherlands and Italian subsidiaries paid excise taxes on mineral oil sales in Italy for a total amount of approximately \$2.0 million. Alleging that the mineral oil excise tax was contrary to European Union directives, the subsidiaries filed with the Customs' Authority of Milan ("Customs Office" or "Office") requests to obtain a refund of the above-mentioned amount. The parties appealed rulings to various levels of tax courts up through the Supreme Court of Italy. In March 2012, the Supreme Court rejected the appeal of the Customs Office, ruling in favor of the subsidiaries and granting a refund for the amounts requested. After filing an enforcement action, the Company collected the \$2.0 million, along with approximately \$0.5 million of interest, in the second quarter of 2013. This amount was recorded as other income on the Company's Condensed Consolidated Statement of Income in the second quarter of 2013.

At June 30, 2013, the Company's gross liability for uncertain tax positions, including interest and penalties, was \$15.6 million. The Company cannot determine a reliable estimate of the timing of cash flows by period related to its uncertain tax position liability. However, should the entire liability be paid, the amount of the payment may be reduced by up to \$10.3 million as a result of offsetting benefits in other tax jurisdictions.

The Company believes it is capable of supporting its operating requirements, including pension plan contributions, payments of dividends to shareholders, possible acquisitions and business opportunities, capital expenditures and possible resolution of contingencies, through internally generated funds supplemented with debt or equity as needed.

## **Non-GAAP Measures**

Included in this Form 10-Q filing is a non-GAAP financial measure of non-GAAP earnings per diluted share. The Company believes this non-GAAP financial measure provides meaningful supplemental information as it enhances a reader's understanding of the financial performance of the Company, is more indicative of future operating performance of the Company, and facilitates a better comparison among fiscal periods, as the non-GAAP measure excludes items that are not considered core to the Company's operations. Non-GAAP results are presented for supplemental informational purposes only and should not be considered a substitute for the financial information presented in accordance with GAAP.





[Table of Contents](#)

The following is a reconciliation between the non-GAAP (unaudited) financial measure of non-GAAP earnings per diluted share to its most directly comparable GAAP (unaudited) measure:

	<b>Three Months Ended June 30,</b>		<b>Six Months Ended June 30,</b>	
	<b>2013</b>	<b>2012</b>	<b>2013</b>	<b>2012</b>
GAAP earnings per diluted share attributable to Quaker Chemical Corporation				
Common Shareholders	\$ 1.22	\$ 0.85	\$ 2.26	\$ 1.80
CFO transition costs per diluted share	—	0.03	—	0.03
Customer bankruptcy costs per diluted share	—	0.06	—	0.06
Mineral oil excise tax refund per diluted share	(0.14)	—	(0.14)	—
Change in fair value of an acquisition-related earnout liability per diluted share	0.03	—	0.03	—
Cost streamlining initiatives per diluted share	0.02	—	0.02	—
Devaluation of the Venezuelan Bolivar per diluted share	—	—	0.03	—
Equity income in a captive insurance company per diluted share	(0.13)	(0.04)	(0.24)	(0.08)
Non-GAAP earnings per diluted share	<u>\$ 1.00</u>	<u>\$ 0.90</u>	<u>\$ 1.96</u>	<u>\$ 1.81</u>

### **Out of Period Adjustment**

As previously disclosed in the Company's 2012 Annual Report on Form 10-K, the Company had reassessed its ability to significantly influence the operating and financial policies of its captive insurance equity affiliate, Primex. Based on its ownership percentage and other factors, the Company determined that, during 2012, the Company obtained the ability to significantly influence Primex and, as a result, changed its method of accounting from the cost to equity method. During the first quarter of 2013, the Company identified errors in Primex's estimated 2012 financial statements, which primarily related to a reinsurance contract held by Primex. The identified errors resulted in a cumulative \$1.0 million understatement of the Company's equity in net income from associated companies for the year ended December 31, 2012. The Company corrected the errors related to Primex in the first quarter of 2013, which had the net effect of increasing equity in net income from associated companies by \$1.0 million for the three months ended March 31, 2013 and the six months ended June 30, 2013. The Company does not believe this adjustment is material to the consolidated financial statements for the year ended December 31, 2012 or to the Company's projected results for the current year and, therefore, has not restated any prior period amounts. As the Company's assessment was based on projected full year 2013 results, the Company will update its assessment at year-end based upon actual 2013 results. See Note 2 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Part I.

### **Operations**

#### **Comparison of the Second Quarter of 2013 with the Second Quarter of 2012**

Net sales for the second quarter of 2013 were \$184.8 million, an increase of approximately 5% from net sales of \$176.8 million in the second quarter of 2012. Product volumes, including acquisitions, increased revenues by approximately 6%, which was partially offset by a decrease of less than 1% due to selling and price mix. The impact on net sales due to foreign exchange rate translation was relatively consistent between the second quarter of 2013 and the second quarter of 2012.

Gross profit increased approximately \$6.7 million, or approximately 11%, from the second quarter of 2012. The increase in gross profit was primarily driven by an improvement in gross margin to 36.4% from 34.3% in the second quarter of 2012 and 35.5% in the first quarter of 2013. The increase in gross margin reflects that the Company's product margins have returned to more acceptable levels.

SG&A increased \$3.9 million, or approximately 9%, from the second quarter of 2012, primarily due to increased costs related to acquisitions, higher incentive compensation and higher selling, inflationary and other labor related costs. Included in SG&A for the second quarter of 2013 was an expense of approximately \$0.4 million, or \$0.02 per diluted share, which related to actions taken to streamline the costs of certain business operations. Included in the second quarter of 2012 were charges of \$1.2 million, or \$0.06 per diluted share, associated with the bankruptcies of certain U.S. customers and \$0.6 million, or \$0.03 per diluted share, related to the transition of the Company's CFO.

Other income for the second quarter of 2013 included a refund of \$2.5 million, or \$0.14 per diluted share, related to excise taxes

paid on certain mineral oil sales, which was partially offset by an increase in the fair value of an acquisition's earnout liability of \$0.7 million, or \$0.03 per diluted share. Also, there were lower foreign exchange rate translation losses in the second quarter of 2013 compared to the second quarter of 2012, contributing to the increase in other income.

The decrease in interest expense was due to lower average borrowings and lower interest rates experienced in the second quarter of 2013 as compared to the second quarter of 2012.

## [Table of Contents](#)

The increase in equity in net income of associated companies from the second quarter of 2012 was primarily due to higher earnings related to the Company's equity interest in a captive insurance company. Earnings from this affiliate were \$1.7 million, or \$0.13 per diluted share, in the second quarter of 2013 compared to \$0.6 million, or \$0.04 per diluted share, in the second quarter of 2012.

Changes in foreign exchange rates negatively impacted the second quarter of 2013 net income by approximately \$0.1 million, or \$0.01 per diluted share.

## **Segment Reviews—Comparison of the Second Quarter of 2013 with the Second Quarter of 2012**

### **Metalworking Process Chemicals**

Metalworking Process Chemicals consists of industrial process fluids for various heavy industrial and manufacturing applications. This reportable segment represented approximately 93% of the Company's second quarter of 2013 net sales, which were up approximately \$7.2 million, or 4%, compared to the second quarter of 2012. Product volumes, including acquisitions, increased this reportable segment's revenues by approximately 5%, which were partially offset by a decrease due to selling and price mix of less than 1%. The impact due to foreign exchange rate translation on the net sales of this reportable segment was relatively consistent between the second quarter of 2013 and the second quarter of 2012. This reportable segment's operating income increased approximately \$3.5 million, or 11%, in the second quarter of 2013 from the second quarter of 2012, reflecting the return of the Company's product margins to more acceptable levels.

### **Coatings**

The Company's coatings segment, which represented approximately 6% of the Company's net sales in the second quarter of 2013, contains products that provide temporary and permanent coatings for metal and concrete products and chemical milling maskants. Net sales for this reportable segment were up approximately \$1.2 million, or 11%, in the second quarter of 2013 compared to the second quarter of 2012, which was primarily due to increased sales of chemical milling maskants to the aerospace industry. This reportable segment's operating income increased by \$0.8 million from the second quarter of 2012, reflecting the sales increases noted above.

### **Other Chemical Products**

Other Chemical Products, which represented less than 1% of the Company's net sales in the second quarter of 2013, consists of sulfur removal products for industrial gas streams sold by the Company's Q2 Technologies joint venture. For the second quarter of 2013, this reportable segment's net sales and operating income decreased approximately \$0.4 million and \$0.1 million, respectively, compared to the second quarter of 2012, due to lower activity in the oil and gas market.

## **Comparison of the First Six Months of 2013 with the First Six Months of 2012**

Net sales for the first six months of 2013 were \$361.0 million, an increase of approximately 2% from \$354.4 million in the first six months of 2012. Product volumes, including acquisitions, increased revenues by approximately 3%, which were partially offset by a decrease due to foreign exchange rate translation of approximately 1%. The effect of selling and price mix on net sales was relatively consistent in the first six months of 2013 compared to the first six months of 2012.

Gross profit increased by approximately \$9.5 million, or approximately 8%, from the first six months of 2012. The increase in gross profit was driven by an improvement in gross margin to 36.0% from 34.0% in the first six months of 2012, reflective of the Company's product margins returning to more acceptable levels, as noted above.

SG&A increased approximately \$6.0 million, or approximately 7%, from the first six months of 2012, primarily due to increased costs related to acquisitions, higher incentive compensation and higher selling, inflationary and other labor related costs. Also, included in SG&A for the first six months of 2013, was an expense related to streamlining the costs of certain business operations, noted above. Compared to these increases in SG&A for the first six months of 2013, there were decreases due to foreign exchange rate translation and the prior year costs associated with the bankruptcies and CFO transition, noted above.

Other income increased in the first six months of 2013 compared to the first six months of 2012 primarily due to the mineral oil excise tax refund, partially offset by the increase in the acquisition-related earnout liability, noted above. Also, there were lower foreign exchange rate translation losses in the first six months of 2013 compared to the first six months of 2012, contributing to the increase in other income.

Interest expense was lower in the first six months of 2013 compared to the first six months of 2012 due to lower interest rates and lower average borrowings.

The Company's effective tax rates for the first six months of 2013 and 2012 of 28.3% and 26.1%, respectively, reflect decreases in reserves for uncertain tax positions due to the expiration of applicable statutes of limitations for certain tax years of approximately \$0.10 and \$0.12 per diluted share, respectively. Also contributing to the increase in the effective tax rate is an increase in the statutory tax rate in China from 15%, in 2012, to 25%, in 2013. While the Company's recertification of its Chinese subsidiary's high tech status is pending, the Company will record tax expense at the current statutory rate of 25%. The Company has experienced and expects to further experience volatility in its effective tax rates due to the varying timing of tax audits and the expiration of applicable statutes of limitations as they relate to uncertain tax positions, among other factors. The Company currently estimates that its effective tax rate will be in the high twenty percent range for the full year of 2013.

## [Table of Contents](#)

Equity in net income of associated companies increased due to higher earnings related to the Company's equity interest in a captive insurance company in the first six months of 2013 compared to the first six months of 2012. Earnings attributable to this equity interest increased from approximately \$1.0 million, or \$0.08 per diluted share, for the first six months of 2012 to approximately \$3.1 million, or \$0.24 per diluted share, for the first six months of 2013. Included in the Company's equity in net income of associated companies for the first six months of 2013 was a non-cash out-of-period adjustment of approximately \$1.0 million, primarily related to a reinsurance contract. This increase in equity in net income of associated companies was partially offset by a charge of approximately \$0.4 million, or \$0.03 per diluted share, related to the devaluation of the Venezuelan Bolivar Fuerte during 2013.

Changes in foreign exchange rates negatively impacted the first six months of 2013 net income by approximately \$0.2 million, or \$0.01 per diluted share.

## **Segment Reviews—Comparison of the First Six Months of 2013 with the First Six Months of 2012**

### **Metalworking Process Chemicals**

Metalworking Process Chemicals consists of industrial process fluids for various heavy industrial and manufacturing applications. This reportable segment represented approximately 93% of the Company's net sales in the first six months of 2013, which were up approximately \$6.2 million, or 2%, compared to the first six months of 2012. Product volumes, including acquisitions, increased this reportable segment's revenues by approximately 3%, which were partially offset by a decrease of approximately 1% due to foreign exchange rate translation. The foreign currency translation impacts were primarily related to the Brazilian Real to U.S. Dollar exchange rate being 0.49 in the first six months of 2013 compared to 0.54 in the first six months of 2012. This reportable segment's operating income increased approximately \$4.5 million, or approximately 7%, in the first six months of 2013 compared to the first six months of 2012, reflecting the return of the Company's product margins to more acceptable levels, noted above.

### **Coatings**

The Company's coatings segment, which represented approximately 6% of the Company's net sales in the first six months of 2013, contains products that provide temporary and permanent coatings for metal and concrete products and chemical milling maskants. Net sales for this reportable segment were up approximately \$1.5 million, or 7%, in the first six months of 2013 compared to the first six months of 2012, which was primarily due to increased sales of chemical milling maskants to the aerospace industry. This reportable segment's operating income increased by \$0.8 million compared to the first six months of 2012, consistent with the sales increase noted above.

### **Other Chemical Products**

Other Chemical Products, which represented less than 1% of the Company's net sales in the first six months of 2013, consists of sulfur removal products for industrial gas streams sold by the Company's Q2 Technologies joint venture. This reportable segment's net sales and operating income decreased approximately \$1.0 million and \$0.2 million, respectively, from the first six months of 2012, due to lower activity in the oil and gas market.

## **Factors That May Affect Our Future Results**

(Cautionary Statements Under the Private Securities Litigation Reform Act of 1995)

Certain information included in this report and other materials filed or to be filed by Quaker with the SEC (as well as information included in oral statements or other written statements made or to be made by us) contain or may contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These statements can be identified by the fact that they do not relate strictly to historical or current facts. We have based these forward-looking statements on our current expectations about future events. These forward-looking statements include statements with respect to our beliefs, plans, objectives, goals, expectations, anticipations, intentions, financial condition, results of operations, future performance and business, including:

- statements relating to our business strategy;
- our current and future results and plans; and
- statements that include the words "may," "could," "should," "would," "believe," "expect," "anticipate," "estimate," "intend," "plan" or similar expressions.

Such statements include information relating to current and future business activities, operational matters, capital spending, and financing sources. From time to time, forward-looking statements are also included in Quaker's other periodic reports on Forms 10-K,

10-Q and 8-K, as well as in press releases and other materials released to, or statements made to, the public.

Any or all of the forward-looking statements in this report and in any other public statements we make may turn out to be wrong. This can occur as a result of inaccurate assumptions or as a consequence of known or unknown risks and uncertainties. Many factors discussed in this report will be important in determining our future performance. Consequently, actual results may differ materially from those that might be anticipated from our forward-looking statements.

[Table of Contents](#)

We undertake no obligation to publicly update any forward-looking statements, whether as a result of new information, future events or otherwise. However, any further disclosures made on related subjects in Quaker's subsequent reports on Forms 10-K, 10-Q and 8-K should be consulted. These forward-looking statements are subject to risks, uncertainties and assumptions about us and our operations that are subject to change based on various important factors, some of which are beyond our control. A major risk is that the Company's demand is largely derived from the demand for its customers' products, which subjects the Company to uncertainties related to downturns in a customer's business and unanticipated customer production shutdowns. Other major risks and uncertainties include, but are not limited to, significant increases in raw material costs, worldwide economic and political conditions, foreign currency fluctuations, terrorist attacks and other acts of violence. Furthermore, the Company is subject to the same business cycles as those experienced by steel, automobile, aircraft, appliance, and durable goods manufacturers. These risks, uncertainties, and possible inaccurate assumptions relevant to our business could cause our actual results to differ materially from expected and historical results. Other factors beyond those discussed could also adversely affect us. Therefore, we caution you not to place undue reliance on our forward-looking statements. This discussion is provided as permitted by the Private Securities Litigation Reform Act of 1995.

**Item 3. Quantitative and Qualitative Disclosures About Market Risk.**

We have evaluated the information required under this item that was disclosed in Part II, Item 7A of our Annual Report on Form 10-K for the year ended December 31, 2012, and we believe there has been no material change to that information.



**Item 4. Controls and Procedures.**

*Evaluation of disclosure controls and procedures.* As required by Rule 13a-15(b) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), our management, including our principal executive officer and principal financial officer, has evaluated the effectiveness of our disclosure controls and procedures as of the end of the period covered by this report. Based on that evaluation, our principal executive officer and our principal financial officer have concluded that as of the end of the period covered by this report our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act) were effective.

*Changes in internal control over financial reporting.* As required by Rule 13a-15(d) under the Exchange Act, our management, including our principal executive officer and principal financial officer, has evaluated our internal control over financial reporting to determine whether any changes to our internal control over financial reporting occurred during the quarter ended June 30, 2013 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. Based on that evaluation, no such changes to our internal control over financial reporting occurred during the quarter ended June 30, 2013.

**PART II  
OTHER INFORMATION**

Items 1A, 3, 4 and 5 of Part II are inapplicable and have been omitted.

**Item 1. Legal Proceedings.**

Incorporated by reference is the information in Note 14 of the Notes to the Condensed Consolidated Financial Statements in Part I, Item 1 of this Report.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.**

The following table sets forth information concerning shares of the Company's common stock acquired by the Company during the period covered by this report.

Period	(a) Total Number of Shares Purchased (1)	(b) Average Price Paid Per Share (2)	(c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs (3)	(d) Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs (3)
April 1 - April 30	1,180	\$ 57.19	—	252,600
May 1 - May 31	—	\$ —	—	252,600
June 1 - June 30	—	\$ —	—	252,600
<b>Total</b>	<b>1,180</b>	<b>\$ 57.19</b>	<b>—</b>	<b>252,600</b>

- (1) All of the 1,180 shares acquired by the Company during the period covered by this report were shares previously owned by employees, that were acquired from such employees upon their surrender of such shares in payment of the exercise price of employee stock options exercised.
- (2) The price per share represents the closing price of the Company's common stock on the date of stock option exercise, as specified by the plan pursuant to which the stock option was granted.
- (3) On February 15, 1995, the Board of Directors of the Company authorized a share repurchase program authorizing the repurchase of up to 500,000 shares of Quaker common stock, and, on January 26, 2005, the Board authorized the repurchase of up to an additional 225,000 shares. Under the 1995 action of the Board, 27,600 shares may yet be purchased. Under the 2005 action of the Board, none of the shares authorized have been purchased and, accordingly, all of those shares may yet be purchased. Neither of the share repurchase authorizations has an expiration date.

**Item 6. Exhibits.**

(a) Exhibits

- 10.1 – [Amended and Restated Syndicated Multicurrency Credit Agreement by and between Registrant and Bank of America, N.A. and certain other lenders dated June 14, 2013.](#)
- 10.2 – [Memorandum of Employment and Addendum by between Registrant and Jan F. Nieman effective August 1, 2013.\\*](#)
- 31.1 – [Certification of Chief Executive Officer of the Company pursuant to Rule 13a-14\(a\) of the Securities Exchange Act of 1934](#)
- 31.2 – [Certification of Chief Financial Officer of the Company pursuant to Rule 13a-14\(a\) of the Securities Exchange Act of 1934](#)
- 32.1 – [Certification of Michael F. Barry Pursuant to 18 U.S. C. Section 1350](#)
- 32.2 – [Certification of Margaret M. Loebel Pursuant to 18 U.S. C. Section 1350](#)
- 101.INS – XBRL Instance Document
- 101.SCH – XBRL Extension Schema Document
- 101.CAL – XBRL Calculation Linkbase Document
- 101.DEF – XBRL Definition Linkbase Document
- 101.LAB – XBRL Label Linkbase Document
- 101.PRE – XBRL Presentation Linkbase Document

\* This exhibit is a management contract or compensation plan or arrangement required to be filed as an exhibit.

\*\*\*\*\*

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.

QUAKER CHEMICAL CORPORATION  
(Registrant)

/s/ Margaret M. Loebel

**Margaret M. Loebel, Vice President, Chief Financial Officer and Treasurer  
(Officer duly authorized on behalf of, and Principal Financial Officer of, the Registrant)**

Date: July 29, 2013

Published CUSIP Number: 74732HAC6

Revolver CUSIP Number: 74732HAD4

**AMENDED AND RESTATED CREDIT AGREEMENT**

Dated as of June 14, 2013

among

**QUAKER CHEMICAL CORPORATION,**

and

**CERTAIN SUBSIDIARIES**

as Borrowers,

**BANK OF AMERICA, N.A.,**

as Administrative Agent, Swing Line Lender

and

L/C Issuer,

and

The Other Lenders Party Hereto

**MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,**

as

Joint Lead Arranger and Joint Book Manager

and

**RBS CITIZENS, N.A.,**

as

Joint Lead Arranger, Joint Book Manager and Syndication Agent

and

**PNC BANK, NATIONAL ASSOCIATION,**

as

Documentation Agent

---

---

## TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
ARTICLE I. DEFINITIONS AND ACCOUNTING TERMS	1
1.01 Defined Terms.	1
1.02 Other Interpretive Provisions	20
1.03 Accounting Terms.	20
1.04 Rounding.	21
1.05 Exchange Rates; Currency Equivalents.	21
1.06 Additional Alternative Currencies.	21
1.07 Change of Currency.	22
1.08 Times of Day	22
1.09 Letter of Credit Amounts.	22
ARTICLE II. THE COMMITMENTS AND CREDIT EXTENSIONS	22
2.01 Committed Loans.	22
2.02 Borrowings, Conversions and Continuations of Committed Loans.	22
2.03 Letters of Credit.	24
2.04 Swing Line Loans.	30
2.05 Prepayments	31
2.06 Termination or Reduction of Commitments.	32
2.07 Repayment of Loans.	33
2.08 Interest.	33
2.09 Fees.	33
2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate.	34
2.11 Evidence of Debt.	34
2.12 Payments Generally; Administrative Agent's Clawback.	35
2.13 Sharing of Payments by Lenders.	36
2.14 Designated Borrowers.	36
2.15 Increase in Commitments.	37
2.16 Cash Collateral.	38
2.17 Defaulting Lenders.	39
ARTICLE III. TAXES, YIELD PROTECTION AND ILLEGALITY	41
3.01 Taxes.	41
3.02 Illegality.	43
3.03 Inability to Determine Rates.	44
3.04 Increased Costs; Reserves on Eurocurrency Rate Loans.	44
3.05 Compensation for Losses.	45
3.06 Mitigation Obligations; Replacement of Lenders.	46
3.07 Survival.	47
ARTICLE IV. CONDITIONS PRECEDENT TO CREDIT EXTENSIONS	47
4.01 Conditions of Initial Credit Extension.	47
4.02 Conditions to all Credit Extensions.	48
ARTICLE V. REPRESENTATIONS AND WARRANTIES	48
5.01 Existence, Qualification and Power.	49
5.02 Authorization; No Contravention.	49
5.03 Governmental Authorization; Other Consents.	49
5.04 Binding Effect.	49
5.05 Financial Statements; No Material Adverse Effect.	49
5.06 Litigation.	50
5.07 No Default.	50
5.08 Ownership of Property; Liens.	50
5.09 Environmental Compliance.	50
5.10 Insurance.	50

---

## TABLE OF CONTENTS (continued)

<u>Section</u>	<u>Page</u>
5.11 Taxes.	50
5.12 ERISA Compliance.	50
5.13 Subsidiaries; Equity Interests.	51
5.14 Margin Regulations; Investment Company Act.	51
5.15 Disclosure.	51
5.16 Compliance with Laws.	51
5.17 Taxpayer Identification Number; Other Identifying Information.	52
5.18 Intellectual Property; Licenses, Etc.	52
5.19 OFAC.	52
5.20 Representations as to Foreign Obligors.	52
ARTICLE VI. AFFIRMATIVE COVENANTS	53
6.01 Financial Statements.	53
6.02 Certificates; Other Information.	53
6.03 Notices.	55
6.04 Payment of Obligations.	55
6.05 Preservation of Existence, Etc.	55
6.06 Maintenance of Properties.	55
6.07 Maintenance of Insurance.	55
6.08 Compliance with Laws.	56
6.09 Books and Records.	56
6.10 Inspection Rights.	56
6.11 Use of Proceeds.	56
6.12 Approvals and Authorizations.	56
ARTICLE VII. NEGATIVE COVENANTS	56
7.01 Liens.	56
7.02 Investments.	57
7.03 Indebtedness.	58
7.04 Fundamental Changes.	59
7.05 Dispositions.	59
7.06 Restricted Payments.	60
7.07 Change in Nature of Business.	60
7.08 Transactions with Affiliates.	60
7.09 Burdensome Agreements.	60
7.10 Use of Proceeds.	60
7.11 Financial Covenants.	61
7.12 Unrestricted Subsidiaries.	61
7.13 Sanctions.	61
ARTICLE VIII. EVENTS OF DEFAULT AND REMEDIES	61
8.01 Events of Default.	61
8.02 Remedies Upon Event of Default.	63
8.03 Application of Funds.	63
ARTICLE IX. ADMINISTRATIVE AGENT	64
9.01 Appointment and Authority.	64
9.02 Rights as a Lender.	64
9.03 Exculpatory Provisions.	64
9.04 Reliance by Administrative Agent.	65
9.05 Delegation of Duties.	65
9.06 Resignation of Administrative Agent.	65
9.07 Non-Reliance on Administrative Agent and Other Lenders.	66
9.08 No Other Duties, Etc.	66
9.09 Administrative Agent May File Proofs of Claim.	66
ARTICLE X. MISCELLANEOUS	67
10.01 Amendments, Etc.	67

## TABLE OF CONTENTS (continued)

<u>Section</u>		<u>Page</u>
10.02	Notices; Effectiveness; Electronic Communication.	68
10.03	No Waiver; Cumulative Remedies; Enforcement.	70
10.04	Expenses; Indemnity; Damage Waiver.	70
10.05	Payments Set Aside.	71
10.06	Successors and Assigns.	72
10.07	Treatment of Certain Information; Confidentiality.	75
10.08	Right of Setoff.	75
10.09	Interest Rate Limitation.	76
10.10	Counterparts; Integration; Effectiveness.	76
10.11	Survival of Representations and Warranties.	76
10.12	Severability.	76
10.13	Replacement of Lenders.	77
10.14	Governing Law; Jurisdiction; Etc.	77
10.15	Waiver of Jury Trial.	78
10.16	No Advisory or Fiduciary Responsibility.	78
10.17	Electronic Execution of Assignments and Certain Other Documents.	79
10.18	USA PATRIOT Act.	79
10.19	Time of the Essence.	79
10.20	Judgment Currency.	79
10.01	Amendment and Restatement.	79

## **SCHEDULES**

1.01	Existing Letters of Credit
2.01	Commitments and Applicable Percentages
5.06	Litigation
5.12(d)	Pension Plans
5.13	Subsidiaries; Other Equity Investments
5.17	Identification Numbers for Designated Borrowers that are Foreign Subsidiaries
5.18	Intellectual Property Matters
7.01	Existing Liens
7.02(b)	Existing Investments
7.03	Existing Indebtedness
7.07	Material Unrelated Lines of Business
10.02	Administrative Agent's Office; Certain Addresses for Notices

## **EXHIBITS**

### *Form of*

A	Committed Loan Notice
B	Swing Line Loan Notice
C	Note
D	Compliance Certificate
E-1	Assignment and Assumption
E-2	Administrative Questionnaire
H	Designated Borrower Request and Assumption Agreement
I	Designated Borrower Notice
J	Opinion Matters
K	U.S. Tax Compliance Certificates

---



## AMENDED AND RESTATED CREDIT AGREEMENT

This AMENDED AND RESTATED CREDIT AGREEMENT (“Agreement”) is entered into as of June 14, 2013, among QUAKER CHEMICAL CORPORATION, a Pennsylvania corporation (the “Company”), certain Subsidiaries of the Company party hereto pursuant to Section 2.14 (each a “Designated Borrower” and, together with the Company, the “Borrowers” and, each a “Borrower”), each lender from time to time party hereto (collectively, the “Lenders” and individually, a “Lender”), and BANK OF AMERICA, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer.

### PRELIMINARY STATEMENTS

A. The Borrowers are party to that certain Credit Agreement, dated October 14, 2005, among the Company, certain affiliates of the Company, Bank of America, N.A., as agent, and a syndicate of lenders (the “Existing Lenders”) (as amended, extended, restated, supplemented or otherwise modified from time to time, the “Existing Credit Agreement”).

B. Pursuant to the Existing Credit Agreement, the Existing Lenders agreed, *inter alia*, to extend to the Borrowers, a revolving credit facility in the maximum aggregate principal amount of One Hundred Seventy Five Million Dollars (\$175,000,000).

C. The Company has requested that the Administrative Agent and the Lenders amend and restate the Existing Credit Agreement as set forth herein.

D. The Lenders have indicated their willingness to lend and the L/C Issuer has indicated its willingness to issue letters of credit, in each case on the terms and subject to the conditions set forth herein.

E. Upon the effectiveness of this Agreement, the Existing Credit Agreement will be amended and restated and the obligations thereunder will be continued under this Agreement. For the sake of clarity, until such time as the terms and conditions for the effectiveness of the Credit Agreement are met, the Existing Credit Agreement will remain in full force and effect.

In consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Existing Credit Agreement is hereby amended and restated in its entirety as follows:

## ARTICLE I. DEFINITIONS AND ACCOUNTING TERMS

**1.01 Defined Terms.** As used in this Agreement, the following terms shall have the meanings set forth below:

“Administrative Agent” means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Agent’s Office” means, with respect to any currency, the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.02 with respect to such currency, or such other address or account with respect to such currency as the Administrative Agent may from time to time notify the Company and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire in substantially the form of Exhibit E-2 or any other form approved by the Administrative Agent.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Aggregate Commitments” means the Commitments of all the Lenders, which on the Closing Date, is equal to \$300,000,000.

“Agreement” means this Credit Agreement.

“Alternative Currency” means each Non-LIBOR Quoted Currency (including Canadian Dollars and Mexican Pesos) and each LIBOR Quoted Currency (excluding Dollars but including Euro, Sterling, Yen, and each other currency

that is approved in accordance with Section 1.06; provided that only the Company may request a Borrowing in Mexican Pesos.

“Alternative Currency Equivalent” means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in the applicable Alternative Currency as determined by the Administrative Agent or the L/C Issuer, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of such Alternative Currency with Dollars.

“Alternative Currency Sublimit” means an amount equal to 100% of the Aggregate Commitments. The Alternative Currency Sublimit is part of, and not in addition to, the Aggregate Commitments.

“Applicable Foreign Obligor Documents” has the meaning specified in Section 5.20.

“Applicable Percentage” means with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the Aggregate Commitments represented by such Lender’s Commitment at such time, subject to adjustment as provided in Section 2.17. If the commitment of each Lender to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02 or if the Aggregate Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

“Applicable Rate” means the following percentages per annum, based upon the Consolidated Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(b):

		<b>Applicable Rate</b>			
		<b>Eurocurrency Rate +</b>			
<b>Pricing Level</b>	<b>Consolidated Leverage Ratio</b>	<b>Commitment Fee</b>	<b>Letters of Credit</b>	<b>Base Rate +</b>	
1	<1.00:1	0.125%	1.00%	(0.50%)	
2	≥1.00:1 but <1.50:1	0.15%	1.25%	(0.25%)	
3	≥1.50:1 but <2.25:1	0.175%	1.50%	0.00%	
4	≥2.25:1 but <3.00:1	0.20%	1.75%	0.25%	
5	≥3.00:1	0.25%	2.00%	0.50%	

Any increase or decrease in the Applicable Rate resulting from a change in the Consolidated Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(b); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the request of the Required Lenders, Pricing Level 5 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and shall remain in effect until the date on which such Compliance Certificate is delivered. The Applicable Rate in effect from the Closing Date through the first Business Day immediately following the date the Compliance Certificate is delivered pursuant to Section 6.02(b) for the fiscal quarter ended June 30, 2013 shall be determined based upon Pricing Level 1.

Notwithstanding anything to the contrary contained in this definition, the determination of the Applicable Rate for any period shall be subject to the provisions of Section 2.10(b).

“Applicable Time” means, with respect to any borrowings and payments in any Alternative Currency, the local time in the place of settlement for such Alternative Currency as may be determined by the Administrative Agent or the L/C Issuer, as the case may be, with notice of such to be given to the Borrowers on the Closing Date and at the time of each change or addition of any Applicable Time hereunder, to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

“Applicant Borrower” has the meaning specified in Section 2.14.

“Approved Fund” means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Arrangers” means Merrill Lynch and RBS Citizens, N.A., in their capacity as joint lead arrangers and joint book managers.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit E-1 or any other form (including electronic documentation generated by MarkitClear or other electronic platform) approved by the Administrative Agent.

“Attributable Indebtedness” means, on any date, (a) in respect of any capital lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease.

“Audited Financial Statements” means the audited consolidated balance sheet of the Company and its Subsidiaries for the fiscal year ended December 31, 2012, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such fiscal year of the Company and its Subsidiaries, including the notes thereto.

“Availability Period” means the period from and including the Closing Date to the earliest of (a) the Maturity Date, (b) the date of termination of the Aggregate Commitments pursuant to Section 2.06, and (c) the date of termination of the commitment of each Lender to make Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.02.

“Bank of America” means Bank of America, N.A. and its successors.

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate,” and (c) the Eurocurrency Rate plus 1.00%. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Committed Loan” means a Committed Loan that is a Base Rate Loan.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate. All Base Rate Loans shall be denominated in Dollars.

“Benoliel Family” shall mean Peter A. Benoliel, his wife and children and their respective spouses and children, and all trusts created by or for the benefit of any of them.

“Borrower” and “Borrowers” each has the meaning specified in the introductory paragraph hereto.

“Borrower Materials” has the meaning specified in Section 6.02.

“Borrowing” means a Committed Borrowing or a Swing Line Borrowing, as the context may require.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent’s Office with respect to Obligations denominated in Dollars is located and:

(a) if such day relates to any interest rate settings as to the Daily Floating Rate or a Eurocurrency Rate Loan denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such Eurocurrency Rate Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any such day that is also a London Banking Day;

(b) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan denominated in Euro, any fundings, disbursements, settlements and payments in Euro in respect of any such Eurocurrency Rate Loan, or any other dealings in Euro to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means a TARGET Day;

(c) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan denominated in a currency other than Dollars or Euro, means any such day on which dealings in deposits in the relevant



currency are conducted by and between banks in the London or other applicable offshore interbank market for such currency; and

(d) if such day relates to any fundings, disbursements, settlements and payments in a currency other than Dollars or Euro in respect of a Eurocurrency Rate Loan denominated in a currency other than Dollars or Euro, or any other dealings in any currency other than Dollars or Euro to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan (other than any interest rate settings), means any such day on which banks are open for foreign exchange business in the principal financial center of the country of such currency.

“Canadian Dollar” and “C\$” mean the lawful currency in Canada.

“Capital Expenditures” shall mean, with respect to any Person for any period, the aggregate of all expenditures (whether paid in cash or accrued as a liability) by such Person during that period which, in accordance with GAAP, are or should be included in “additions to property, plant or equipment” or similar items reflected in the statement of cash flows of such Person (other than expenditures incurred in connection with any Permitted Acquisition).

“Captive Insurance Company” means Primex, Ltd.

“Cash Collateralize” means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the L/C Issuer or the Lenders, as collateral for L/C Obligations or obligations of the Lenders to fund participations in respect of L/C Obligations, cash or deposit account balances or, if the Administrative Agent and the L/C Issuer shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and the L/C Issuer.

“Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“CDOR Rate” means, the rate per annum, equal to the average of the annual yield rates applicable to Canadian Dollar banker’s acceptances at or about 10:00a.m. (Toronto, Ontario time) on the first day of such Interest Period (or if such day is not a Business Day, then on the immediately preceding Business Day) on the “CDOR Page” (or any display substituted therefor) of Reuters Monitor Money Rates Service (or such other page or commercially available source displaying Canadian interbank bid rates for Canadian Dollar bankers’ acceptances as may be designated by the Administrative Agent from time to time) for a term equivalent to such Interest Period (or if such Interest Period is not equal to a number of months, for a term equivalent to the number of months closest to such Interest Period).

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Change of Control” means an event or series of events by which

(a) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding (i) the Company which are treasury shares or (ii) any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an “option right”)), directly or indirectly, of 35% or more of the combined voting power of the Company’s then outstanding equity securities of the Company entitled to vote for members of the board of directors or equivalent governing body of the Company on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right); provided, however, that a Change of Control shall not be deemed to have occurred under the provisions of this subsection (a) by reason of the beneficial ownership of voting securities by members of the Benoliel

Family unless and until the beneficial ownership of all members of the Benoliel Family (including any other individuals or entities who or which, together with any member or members of the Benoliel Family, are deemed under Sections 13(d) or 14(d) of the Securities Exchange Act of 1934, as amended, to constitute a single Person) exceeds 60% of the combined voting power of the Company's then outstanding securities;

(b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Company cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body (excluding, in the case of both clause (ii) and clause (iii), any individual whose initial nomination for, or assumption of office as, a member of that board or equivalent governing body occurs as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors by any person or group other than a solicitation for the election of one or more directors by or on behalf of the board of directors); or

(c) except as provided in the proviso to clause (a) above or in the exceptions set forth in clause (a) above, any Person or two or more Persons acting in concert acquires the power to exercise, directly or indirectly, a controlling influence over the management of the Company, or control over the equity securities of the Company entitled to vote for members of the board of directors or equivalent governing body of the Company on a fully-diluted basis (and taking into account all such securities that such Person or group has the right to acquire pursuant to any option right) representing 35% or more of the combined voting power of such securities.

“Closing Date” means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.

“Code” means the Internal Revenue Code of 1986.

“Commitment” means, as to each Lender, its obligation to (a) make Committed Loans to the Borrowers pursuant to Section 2.01, (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the Dollar amount set forth opposite such Lender's name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

“Committed Borrowing” means a borrowing consisting of simultaneous Committed Loans of the same Type, in the same currency and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by each of the Lenders pursuant to Section 2.01.

“Committed Loan” has the meaning specified in Section 2.01.

“Committed Loan Notice” means a notice of (a) a Committed Borrowing, (b) a conversion of Committed Loans from one Type to the other, or (c) a continuation of Eurocurrency Rate Loans, pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit A.

“Commitment Fee” means the per annum fee payable pursuant to Section 2.09(a).

“Company” has the meaning specified in the introductory paragraph hereto.

“Compliance Certificate” means a certificate substantially in the form of Exhibit D.

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“Consolidated EBITDA” means, for any period, for the Company and its Subsidiaries on a consolidated basis, an amount equal to Consolidated Net Income for such period plus (without duplication):

(a) the following to the extent deducted in calculating such Consolidated Net Income; provided that the amount of the items and expenses in clauses (x) through (xiii) below may not exceed in the aggregate 10% of Consolidated EBITDA for the four most recently ended fiscal quarters:



- (i) Consolidated Interest Charges for such period;
- (ii) the provision for Federal, state, local and foreign income taxes includable in Net Income for such period including, Permitted Non-Cash Reversals;
- (iii) depreciation and amortization expense;
- (iv) non-cash charges in respect of any write down of assets taken in the ordinary course of business;
- (v) non-cash compensation expenses related to the application of financial accounting standard FAS 123-R;
- (vi) non-cash compensation expenses not included under FAS 123-R, including stock grants and contributions of stock to a 401(k) or defined contribution pension plan;
- (vii) to the extent actually reimbursed by insurance or a third party, amounts paid for legal settlements, fines, judgments or orders;
- (viii) impairment charges, asset write offs and write downs, including impairment charges, asset write offs and write downs related to goodwill, intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP shall be excluded;
- (ix) any non-cash charges reducing Consolidated Net Income (provided, that if any such non-cash charge represents an accrual or reserve for potential cash items in any future period, (i) the Company may determine not to add back such non-cash charge in the current period and (ii) to the extent the Company does decide to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA);
- (x) items expensed pursuant to FAS 141-R and FAS 160 that were previously capitalized under GAAP, including transactional expenses such as valuation, investment banking and legal fees;
- (xi) costs and expenses associated with transfers, relocations, departures and/or hiring of senior officers of the Company and its Subsidiaries or other members of the Management Executive Committee of the Company, including severance and other termination costs and relocation expenses;
- (xii) non-recurring expenses and restructuring costs in connection with restructurings, closures, reallocations and relocations, including severance pay and other employee termination costs;
- (xiii) expected cost savings, operating expense reductions, and synergies reasonably identifiable and factually supportable (in the good faith determination of, and subject to certification thereof by, a Responsible Officer of the Company) related to permitted asset Dispositions and acquisitions; and
- (xiv) any other non-cash expenses for such period as are approved by the Required Lenders;

and minus (b) to the extent included in calculating such Consolidated Net Income, (i) Federal, state, local and foreign income tax credits of the Company and its Subsidiaries for such period and (ii) all non-cash items increasing Consolidated Net Income for such period; provided that if any such non-cash items become cash items in a future period, such the cash receipt may be added back in such future period.

“Consolidated Funded Indebtedness” means, as of any date of determination, for the Company and its Subsidiaries on a consolidated basis, but without duplication, the sum of (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including Obligations hereunder) and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments, (b) all purchase money Indebtedness, (c) all direct obligations arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments (other than Letters of Credit to the extent such Letters of Credit support Indebtedness otherwise included in clauses (a) through (g) hereof), (d) all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business), (e) Attributable Indebtedness in respect of capital leases and Synthetic Lease Obligations, (f) without duplication, all Guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (e) above of Persons other than the Company or any Subsidiary, and (g) all Indebtedness of the types referred to in clauses (a) through (f) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which the Company or a Subsidiary is a general partner or joint venturer unless such Indebtedness is expressly made non-recourse to the Company or such Subsidiary; provided that each of clauses (a)





through (g) (except Synthetic Lease Obligations) shall only be included in Consolidated Funded Indebtedness to the extent the foregoing appears as a liability on the balance sheet of the Company in accordance with GAAP.

“Consolidated Interest Charges” means, for any period, for the Company and its Subsidiaries on a consolidated basis, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses of the Company and its Subsidiaries in connection with (i) borrowed money (including capitalized interest), (ii) the deferred purchase price of assets, and (iii) off-balance sheet liabilities, in each case to the extent treated as interest in accordance with GAAP, and (b) the portion of rent expense of the Company and its Subsidiaries with respect to such period under capital leases that is treated as interest in accordance with GAAP, plus or minus the benefits or detriments, as the case may be, of any interest rate protection.

“Consolidated Interest Coverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated EBITDA for the period of the four prior fiscal quarters ending on such date to (b) Consolidated Interest Charges for such period.

“Consolidated Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated EBITDA for the period of the four fiscal quarters most recently ended.

“Consolidated Liquidity” means, as of any date of determination, for the Company and its Subsidiaries, on a consolidated basis, an amount equal to the sum of: (i) unrestricted cash-on-hand held in any Alternative Currency other than the Mexican Peso; (ii) Investments by the Company or any of its Subsidiaries in cash equivalents or short-term marketable debt securities held in any Alternative Currency other than the Mexican Peso; and (iii) an amount equal to the amount by which the Aggregate Commitments exceeds the Outstanding Amount.

“Consolidated Net Income” means, for any period, for the Company and its Subsidiaries on a consolidated basis, the net income of the Company and its Subsidiaries (excluding extraordinary gains and extraordinary losses) determined in accordance with GAAP for such period.

“Consolidated Net Tangible Assets” means, as of any date of determination, for the Company and its Subsidiaries on a consolidated basis, the sum of the total assets held by the Company and its Subsidiaries minus the Intangible Assets of the Company and its Subsidiaries on that date.

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“Credit Extension” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“Daily Floating Rate” means the fluctuating rate per annum equal to LIBOR, as published by Reuters (or such other commercially available source providing quotations of LIBOR as may be designated by the Administrative Agent from time to time) and determined for each Business Day at approximately 11:00 a.m. London time two Business Days prior to the date in question, for U.S. Dollar deposits (for delivery on the first day of such interest period) with a one month term, as adjusted from time to time in the Administrative Agent’s sole discretion for reserve requirements, deposit insurance assessment rates and other regulatory costs. In any instance in which the aforesaid source of such reference rate is not available for any reason, then the Administrative Agent shall select another, commercially reasonable method to determine the one month London Interbank Offered Rate and such rate, as so determined, shall be the reference rate used to determine the Daily Floating Rate hereunder. The Daily Floating Rate in effect on any day other than a Business Day shall be the Daily Floating Rate in effect on the immediately preceding Business Day.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (i) the Base Rate plus (ii) the Applicable Rate, if any, applicable to Base Rate Loans plus (iii) 2% per annum; provided, however, that with respect to a Eurocurrency Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate and any Mandatory Cost) otherwise applicable to such Loan plus 2% per annum, and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate plus 2% per annum.

“Defaulting Lender” means, subject to Section 2.17(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Company in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, the L/C Issuer, the Swing Line Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swing Line Loans) within two Business Days of the date when due, (b) has notified the Company, the Administrative Agent, the L/C Issuer or the Swing Line Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Company, to confirm in writing to the Administrative Agent and the Company that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Company), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.17(b)) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Company, the L/C Issuer, the Swing Line Lender and each other Lender promptly following such determination.

“Designated Borrower” has the meaning specified in the introductory paragraph hereto.

“Designated Borrower Notice” has the meaning specified in Section 2.14.

“Designated Borrower Request and Assumption Agreement” has the meaning specified in Section 2.14.

“Designated Jurisdiction” means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

“Disposition” or “Dispose” means the sale, transfer, exclusive license (other than any such license as to which exclusivity is granted by the licensor as to geographic scope only), lease or other disposition (including any sale and leaseback transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Dollar” and “\$” mean lawful money of the United States.

“Dollar Equivalent” means, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in any Alternative Currency, the equivalent amount thereof in Dollars as determined by the Administrative Agent or the L/C Issuer, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of Dollars with such Alternative Currency.

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of any political subdivision of the United States.

“Dutch Subsidiary” has the meaning specified in Section 5.16.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 10.06(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 10.06(b)(iii)).

“Environmental Laws” means any and all (a) Federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, or decrees, (b) permits, concessions, grants, franchises or licenses granted by any Governmental Authority, in each case relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Company, any other Borrower or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“ERISA” means the Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” means any trade or business (whether or not incorporated) under common control with the Company within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of the Company or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a “substantial employer” as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Company or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (g) the determination that any Pension Plan is considered an at-risk plan or a plan in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Code or Sections 303, 304 and 305 of ERISA.

“Euro” and “€” mean the single currency of the Participating Member States.

“Eurocurrency Rate” means:

(a) for any Interest Period with respect to a Eurocurrency Rate Loan:

(i) in the case of a Eurocurrency Rate Loan denominated in a LIBOR Quoted Currency, LIBOR, as published by Reuters (or such other commercially available source providing quotations of LIBOR as may be designated by the Administrative Agent from time to time) at or about 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period, for deposits in the relevant currency (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; provided that if such rate is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which deposits in the relevant currency for delivery on the first day of such Interest Period in Same Day Funds in the approximate amount

of the Eurocurrency Rate Loan being made, continued or converted by Bank of America and with a term equivalent to such Interest Period would be offered by Bank of America's London Branch (or other Bank of America branch or Affiliate) to major banks in the London or other offshore interbank market for such currency at their request at or about 11:00 a.m. (London time) two (2) Business Days prior to the commencement of such Interest Period;

(ii) in the case of Non-LIBOR Quoted Currencies denominated in (a) Canadian Dollars, the rate per annum equal to the CDOR Rate and (b) Mexican Pesos, the rate per annum equal to the Peso Rate; provided that if either such rate is not available at such time for such term for any reason, the rate per annum determined by the Administrative Agent to be the discount rate (calculated on an annual basis and rounded upward, if necessary, to the nearest whole multiple of 1/100 of 1%, with 5/1,000 of 1% being rounded up) at or about 10:00 a.m. (Toronto, Ontario time for the CDOR Rate or Mexico City, Mexico time for the Peso Rate) on the first day of such Interest Period (or such other day as is generally treated as the rate fixing day by market practice in such interbank market, as determined by the Administrative Agent) at which the Administrative Agent is then offering to purchase bankers' acceptances accepted by it having an aggregate face amount equal to the aggregate face amount of, and with a term equivalent to such Interest Period (or if such Interest Period is not equal to a number of months, having a term equivalent to the number of months closes to such Interest Period); and

(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to (i) LIBOR, at approximately 11:00 a.m., London time determined two London Banking Days prior to such date for Dollar deposits being delivered in the London interbank market for a term of one month commencing that day or (ii) if such published rate is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the date of determination in same day funds in the approximate amount of the Base Rate Loan being made or maintained and with a term equal to one month would be offered by Bank of America's London Branch to major banks in the London interbank Eurodollar market at their request at the date and time of determination.

"Eurocurrency Rate Loan" means a Committed Loan that bears interest at a rate based on clause (a) of the definition of "Eurocurrency Rate". Eurocurrency Rate Loans may be denominated in Dollars or in an Alternative Currency. All Committed Loans denominated in an Alternative Currency must be Eurocurrency Rate Loans.

"Event of Default" has the meaning specified in Section 8.01.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Company under Section 10.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a)(ii) or (c), amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient's failure to comply with Section 3.01(e) and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"Existing Credit Agreement" has the meaning specified in the Preliminary Statements hereto.

"Existing Letters of Credit" means the letters of credit originally issued under the Existing Credit Agreement listed on Schedule 1.01.

"FASB ASC" means the Accounting Standards Codification of the Financial Accounting Standards Board.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day;

provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Administrative Agent.

“Fee Letter” means, collectively, the letter agreement, dated May 8, 2013, among the Company, the Administrative Agent and Merrill Lynch, the letter agreement, dated May 9, 2013, among Citizens Bank of Pennsylvania, RBS Citizens, N.A., and the Company.

“Foreign Lender” means, with respect to any Borrower, (a) if such Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if such Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which such Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Foreign Obligor” means a Borrower that is a Foreign Subsidiary.

“Foreign Subsidiary” means any Subsidiary that is organized under the laws of a jurisdiction other than the United States, a State thereof or the District of Columbia.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“Fronting Exposure” means, at any time there is a Defaulting Lender, (a) with respect to the L/C Issuer, such Defaulting Lender’s Applicable Percentage of the Outstanding Amount of all outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swing Line Lender, such Defaulting Lender’s Applicable Percentage of Swing Line Loans other than Swing Line Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders in accordance with the terms hereof.

“Fund” means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the amount stated on the most recent balance sheet of the consolidated balance sheet of the Company and its Subsidiaries. The term “Guarantee” as a verb has a corresponding meaning.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“IFRS” means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements delivered under or referred to herein.

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments;
- (c) net obligations of such Person under any Swap Contract;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than 90 days after the date on which the related invoice was originally payable, which date is for more than 90 days after the date the invoice was originally issued);
- (e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (f) capital leases and Synthetic Lease Obligations;
- (g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of the acquisition of any Equity Interest in such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; and
- (h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of any capital lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Borrower under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

“Indemnitees” has the meaning specified in Section 10.04(b).

“Information” has the meaning specified in Section 10.07.

“Intangible Assets” means assets that are considered to be intangible assets under GAAP, including customer lists, goodwill, computer software, copyrights, trade names, trademarks, patents, franchises, licenses, unamortized deferred charges, unamortized debt discount and capitalized research and development costs.

“Interest Payment Date” means, (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided, however, that if any Interest Period for a Eurocurrency Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan or Swing Line Loan, the last Business Day of each March, June, September and December and the Maturity Date.

“Interest Period” means as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, two, three or six months thereafter, as selected by the Company or other Borrower in its Committed Loan Notice; provided that:

- (i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a Eurocurrency Rate Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;
- (ii) any Interest Period pertaining to a Eurocurrency Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and
- (iii) no Interest Period shall extend beyond the Maturity Date.

“Internal Control Event” means a material weakness in, or fraud that involves management or other employees who have a significant role in, the Company’s internal controls over financial reporting within the meaning of Item 308 of Regulation S-K promulgated by the SEC, in each case as described in the Securities Laws.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For the sake of clarity, Investments shall not include accounts receivables in the ordinary course of business. For purposes of covenant compliance, the amount of the applicable Investments shall be the aggregate amount actually invested by the Borrowers and the Restricted Subsidiaries, without adjustment for subsequent increases or decreases in the value of such Investments but reduced by the aggregate amount of any dividends, distributions or other cash amounts subsequently received by the Borrowers and Restricted Subsidiaries in respect of such Investments.

“IP Rights” has the meaning specified in Section 5.18.

“IRS” means the United States Internal Revenue Service.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“Issuer Documents” means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the L/C Issuer and the Company (or any Subsidiary) or in favor of the L/C Issuer and relating to such Letter of Credit.

“Laws” means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“L/C Advance” means, with respect to each Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Percentage. All L/C Advances shall be denominated in Dollars.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Committed Borrowing. All L/C Borrowings shall be denominated in Dollars.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.



“L/C Issuer” means Bank of America in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

“L/C Obligations” means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Lender” has the meaning specified in the introductory paragraph hereto and, unless the context requires otherwise, includes the Swing Line Lender.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Company and the Administrative Agent.

“Letter of Credit” means any letter of credit issued hereunder providing for the payment of cash upon the honoring of a presentation thereunder and shall include the Existing Letters of Credit. A Letter of Credit may be a sight draft commercial letter of credit or a standby letter of credit. Letters of Credit may be issued in Dollars.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the L/C Issuer.

“Letter of Credit Expiration Date” means the day that is seven days prior to the Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

“Letter of Credit Fee” has the meaning specified in Section 2.03(h).

“Letter of Credit Sublimit” means an amount equal to \$50,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Commitments.

“LIBOR” means the rate per annum equal to the British Bankers Association LIBOR rate or the successor thereto as approved by the Administrative Agent if the British Bankers Association is no longer making a LIBOR rate available.

“LIBOR Quoted Currency” means each of the following currency: Dollars; Euro; Sterling and Yen and each other currency that is approved in accordance with Section 1.06 and for which there is a published LIBOR rate.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

“Loan” means an extension of credit by a Lender to a Borrower under Article II in the form of a Committed Loan or a Swing Line Loan.

“Loan Documents” means this Agreement, each Designated Borrower Request and Assumption Agreement, each Note, each Issuer Document, any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.16 and the Fee Letter.

“London Banking Day” means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank Eurodollar market.

“Mandatory Cost” means, with respect to any period, the percentage rate per annum determined by a Lender to be an additional cost rate due to fees imposed by the Financial Conduct Authority and /or the Prudential Regulation Authority. If a Lender does not submit a rate to the Administrative Agent, then its additional cost rate for the relevant period will be deemed to be zero.

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, or financial condition of the Company and its Subsidiaries taken as a whole; (b) a material impairment of the ability of any Borrower to perform its obligations under any Loan Document to which it is a



party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Borrower of any Loan Document to which it is a party. As used in this definition, “material” shall mean an amount of five percent (5%) or more of the total consolidated assets of the Company and its Subsidiaries as of the relevant date of determination.

“Maturity Date” means June 14, 2018; provided, however, that if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“Merrill Lynch” means Merrill Lynch, Pierce, Fenner & Smith Incorporated and its successors.

“Mexican Peso” means the lawful currency in Mexico.

“Minimum Collateral Amount” means, at any time, (i) with respect to Cash Collateral consisting of cash or deposit account balances provided to reduce or eliminate Fronting Exposure during the existence of a Defaulting Lender, an amount equal to 105% of the Fronting Exposure of the L/C Issuer with respect to Letters of Credit issued and outstanding at such time, (ii) with respect to Cash Collateral consisting of cash or deposit account balances provided in accordance with the provisions of Section 2.16(a)(i), (a)(ii) or (a)(iii), an amount equal to 105% of the Outstanding Amount of all LC Obligations, and (iii) otherwise, an amount determined by the Administrative Agent and the L/C Issuer in their sole discretion.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Company or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Multiple Employer Plan” means a Plan which has two or more contributing sponsors (including the Company or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

“Non-Consenting Lender” means any Lender that does not approve any consent, waiver or amendment that (i) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 10.01 and (ii) has been approved by the Required Lenders.

“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time.

“Non-LIBOR Quoted Currency” means Canadian Dollars and Mexican Pesos and each other currency that is approved in accordance with Section 1.06 and for which there is not a published LIBOR rate.

“Note” means a promissory note made by a Borrower in favor of a Lender evidencing Loans made by such Lender to such Borrower, substantially in the form of Exhibit C.

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Borrower arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Borrower or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.06).

“Outstanding Amount” means (i) with respect to Committed Loans on any date, the Dollar Equivalent amount of the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of such Committed Loans occurring on such date; (ii) with respect to Swing Line Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of such Swing Line Loans occurring on such date; and (iii) with respect to any L/C Obligations on any date, the Dollar Equivalent amount of the aggregate outstanding amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Company of Unreimbursed Amounts.

“Overnight Rate” means, for any day, (a) with respect to any amount denominated in Dollars, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent, the L/C Issuer, or the Swing Line Lender, as the case may be, in accordance with banking industry rules on interbank compensation, and (b) with respect to any amount denominated in an Alternative Currency, the rate of interest per annum at which overnight deposits in the applicable Alternative Currency, in an amount approximately equal to the amount with respect to which such rate is being determined, would be offered for such day by a branch or Affiliate of Bank of America in the applicable offshore interbank market for such currency to major banks in such interbank market.

“Participant” has the meaning specified in Section 10.06(d).

“Participating Member State” means any member state of the European Union that has the Euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

“Participant Register” has the meaning specified in Section 10.06(d).

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Funding Rules” means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

“Pension Plan” means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to by the Company and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code.

“Permitted Acquisition” means any purchase of or investments in the capital stock or other equity or assets of any entity by any Borrower or any Subsidiary; provided that:

- (a) the Consolidated Leverage Ratio, calculated on a pro forma basis after taking into consideration any such purchase or investment does not exceed 3.25 to 1.0;
- (b) the Consolidated Liquidity is equal to at least \$25,000,000 after taking into consideration any such purchase or investment;
- (c) if after giving effect to such acquisition and any related dispositions of assets purchased in connection therewith, the Borrower or Subsidiary is in compliance with Section 7.07;
- (d) such acquisition shall be consensual and shall have been approved by the subject Person’s Board of Directors or the requisite holders of such capital stock or other equity interests;
- (e) no Default has occurred and is continuing; and
- (f) if, after giving effect to such acquisition, including without limitation, being in compliance with the covenants set forth in Sections 7.11 and 7.12 on a pro forma basis, including the stock or assets and concomitant liabilities then being acquired, there shall be no Default that has occurred and is continuing and the applicable Borrower will not be in default under any provision of any of the Loan Documents.



As used in this definition, “on a pro forma basis” means the calculation of the Consolidated Leverage Ratio using (a) Consolidated Funded Indebtedness as in effect on the date of the Acquisition after giving effect to the Acquisition and (b) Consolidated EBITDA based on the most recently delivered financial statements of the Company and its Subsidiaries plus the Consolidated EBITDA of the Target for the same period, with such adjustments thereto as would be permitted under Section 210.11-02 of Regulation S-X.

“Permitted Non-Cash Reversals” means a one-time reversal on the balance sheet of non-cash U.S. deferred tax assets which primarily relate to differences in when certain items are deductible for tax purposes vs. expensed for GAAP purposes, the realization of which is contingent upon future taxable income, provided that the aggregate amount of such reversals does not exceed \$20,000,000.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Peso Rate” means, the rate per annum equal to the Interbank Interest Equilibrium Rate ( *Tasa de Interes Interbancaria de Equilibrio*) for a twenty-eight (28) day period or ninety-one (91) day period, as applicable (“TIIE”), as published by the Banco de Mexico in the Official Gazette of the Federation (*Diario Oficial de la Federacion*) on the Business Day on which such Interest Period is to commence.

“Plan” means any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of the Company or any ERISA Affiliate or any such Plan to which the Company or any ERISA Affiliate is required to contribute on behalf of any of its employees.

“Platform” has the meaning specified in Section 6.02.

“Professional Market Party” means a professional market party as defined in the Financial Supervision Act ( *Wet op het financieel toezicht*), as such definition is amended from time to time to include or exclude persons or entities.

“Prohibited Transaction” means a transaction described in Section 4975 of the Code or Section 406 of ERISA, except to the extent that such transaction is under a statutory, class administrative or individual administrative exception.

“Public Lender” has the meaning specified in Section 6.02.

“Recipient” means the Administrative Agent, any Lender, the L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Borrower hereunder.

“Register” has the meaning specified in Section 10.06(c).

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Committed Loans, a Committed Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application, and (c) with respect to a Swing Line Loan, a Swing Line Loan Notice.

“Required Lenders” means, at any time, Lenders having Total Credit Exposures representing more than 50% of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time; provided that, the amount of any participation in any Swing Line Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swing Line Lender or L/C Issuer, as the case may be, in making such determination.

“Responsible Officer” means the chief executive officer, president, chief financial officer, treasurer, vice president—global metalworking and fluid power, corporate secretary, general counsel of the Company, or any other Person designated by the Board of the applicable Borrower in resolutions given to the Administrative Agent or any other Person designated pursuant to Board resolutions. Any document delivered hereunder that is signed by a Responsible Officer of a Borrower shall be conclusively presumed to have been authorized by all necessary corporate,



partnership and/or other action on the part of such Borrower and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Borrower.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of the Company or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to the Company’s stockholders, partners or members (or the equivalent Person thereof) but excluding (a) any intercompany payment made to a Borrower or (b) any dividend or other distribution on account of an equity interest payable to a wholly-owned Subsidiary.

“Restricted Subsidiary” means each Subsidiary other than Unrestricted Subsidiaries.

“Revaluation Date” means, with respect to any Loan, each of the following: (i) each date of a Borrowing of a Eurocurrency Rate Loan denominated in an Alternative Currency, (ii) each date of a continuation of a Eurocurrency Rate Loan denominated in an Alternative Currency pursuant to Section 2.02, and (iii) such additional dates as the Administrative Agent shall determine or the Required Lenders shall require.

“Revolving Credit Exposure” means, as to any Lender at any time, the aggregate Outstanding Amount at such time of its Committed Loans and the aggregate Outstanding Amount of such Lender’s participation in L/C Obligations and Swing Line Loans at such time.

“Sanction(s)” means any international economic sanction administered or enforced by the United States government (including without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority.

“Same Day Funds” means (a) with respect to disbursements and payments in Dollars, immediately available funds, and (b) with respect to disbursements and payments in an Alternative Currency, same day or other funds as may be determined by the Administrative Agent or the L/C Issuer, as the case may be, to be customary in the place of disbursement or payment for the settlement of international banking transactions in the relevant Alternative Currency.

“Sarbanes-Oxley” means the Sarbanes-Oxley Act of 2002.

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Securities Laws” means the Securities Act of 1933, the Securities Exchange Act of 1934, Sarbanes-Oxley and the applicable accounting and auditing principles, rules, standards and practices promulgated, approved or incorporated by the SEC or the Public Company Accounting Oversight Board, as each of the foregoing may be amended and in effect on any applicable date hereunder.

“Special Notice Currency” means at any time an Alternative Currency, other than the currency of a country that is a member of the Organization for Economic Cooperation and Development at such time located in North America or Europe.

“Spot Rate” for a currency means the rate determined by the Administrative Agent or the L/C Issuer, as applicable, to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Administrative Agent or the L/C Issuer may obtain such spot rate from another financial institution designated by the Administrative Agent or the L/C Issuer if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency; and provided further that the L/C Issuer may use such spot rate quoted on the date as of which the foreign exchange computation is made in the case of any Letter of Credit denominated in an Alternative Currency.

“Sterling” and “£” mean the lawful currency of the United Kingdom.

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled,



directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Company.

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

“Swap Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“Swing Line Borrowing” means a borrowing of a Swing Line Loan pursuant to Section 2.04.

“Swing Line Lender” means Bank of America in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

“Swing Line Loan” has the meaning specified in Section 2.04(a).

“Swing Line Loan Notice” means a notice of a Swing Line Borrowing pursuant to Section 2.04(b), which, if in writing, shall be substantially in the form of Exhibit B.

“Swing Line Sublimit” means an amount equal to the lesser of (a) \$40,000,000 and (b) the Aggregate Commitments. The Swing Line Sublimit is part of, and not in addition to, the Aggregate Commitments.

“Synthetic Lease Obligation” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

“TARGET2” means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007.

“TARGET Day” means any day on which TARGET2 (or, if such payment system ceases to be operative, such other payment system, if any, determined by the Administrative Agent to be a suitable replacement) is open for the settlement of payments in Euro.

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Threshold Amount” means \$15,000,000.

“Total Credit Exposure” means, as to any Lender at any time, the unused Commitments and Revolving Credit Exposure of such Lender at such time.

“Total Outstandings” means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

“Type” means, with respect to a Committed Loan, its character as a Base Rate Loan or a Eurocurrency Rate Loan.



“UCP” means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce (“ICC”) Publication No. 600 (or such later version thereof as may be in effect at the time of issuance).

“United States” and “U.S.” mean the United States of America.

“Unreimbursed Amount” has the meaning specified in Section 2.03(c)(i).

“Unrelated Lines of Business” means any line of business substantially different from those lines of business conducted by the Company and its Subsidiaries on the date hereof or any business substantially related or incidental thereto.

“Unrestricted Subsidiaries” means Quaker Chemical South Africa (Pty.) Ltd., a corporation of the Republic of South Africa, Quaker Chemical India Limited, an Indian corporation, Quaker Chemical (Australasia) Pty. Limited, a corporation of the State of Victoria, Australia, SB Decking Inc., a Delaware corporation, Kelko Quaker Chemical S.A., a Venezuelan corporation, Nippon Quaker Chemical, Ltd., a Japanese corporation and such other Subsidiaries as are designated from time to time pursuant to Section 7.12.

“U.S. Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Code.

“U.S. Tax Compliance Certificate” has the meaning specified in Section 3.01(e)(ii)(B)(III).

“Yen” and “¥” mean the lawful currency of Japan.

**1.02 Other Interpretive Provisions.** With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “hereto,” “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including,” the words “to” and “until” each mean “to but excluding,” and the word “through” means “to and including.”

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

**1.03 Accounting Terms.** (a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Company and its Subsidiaries shall be deemed to be carried at 100%



of the outstanding principal amount thereof, and the effects of FASB ASC 825 on financial liabilities shall be disregarded.

(b) **Changes in GAAP.** If at any time any change in GAAP (including the adoption of IFRS) would materially affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Company or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Company shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (A) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (B) the Company shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a management-prepared reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Without limiting the foregoing, leases shall continue to be classified and accounted for on a basis consistent with that reflected in the Audited Financial Statements for all purposes of this Agreement, notwithstanding any change in GAAP relating thereto, unless the parties hereto shall enter into a mutually acceptable amendment addressing such changes, as provided for above.

**1.04 Rounding.** Any financial ratios required to be maintained by the Company pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

**1.05 Exchange Rates; Currency Equivalents.** (a) The Administrative Agent shall determine the Spot Rates as of each Revaluation Date to be used for calculating Dollar Equivalent amounts of Credit Extensions and Outstanding Amounts denominated in Alternative Currencies. Such Spot Rates shall become effective as of such Revaluation Date and shall be the Spot Rates employed in converting any amounts between the applicable currencies until the next Revaluation Date to occur. Except for purposes of financial statements delivered by Borrowers hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent.

(b) Wherever in this Agreement in connection with a Committed Borrowing, conversion, continuation or prepayment of a Eurocurrency Rate Loan, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Committed Borrowing, Eurocurrency Rate Loan is denominated in an Alternative Currency, such amount shall be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent.

**1.06 Additional Alternative Currencies.** (a) The Company may from time to time request that Eurocurrency Rate Loans be made in a currency other than those specifically listed in the definition of "Alternative Currency;" provided that such requested currency is a lawful currency (other than Dollars) that is readily available and freely transferable and convertible into Dollars. Any such request with respect to the making of Eurocurrency Rate Loans shall be subject to the approval of the Administrative Agent and all of the Lenders.

(b) Any such request shall be made to the Administrative Agent not later than 11:00 a.m., 20 Business Days prior to the date of the desired Credit Extension (or such other time or date as may be agreed by the Administrative Agent in its or their sole discretion). In the case of any such request pertaining to Eurocurrency Rate Loans, the Administrative Agent shall promptly notify each Lender thereof. Each Lender (in the case of any such request pertaining to Eurocurrency Rate Loans) shall notify the Administrative Agent, not later than 11:00 a.m., ten Business Days after receipt of such request whether it consents, in its sole discretion, to the making of Eurocurrency Rate Loans, as the case may be, in such requested currency.

(c) Any failure by a Lender, as the case may be, to respond to such request within the time period specified in the preceding sentence shall be deemed to be a refusal by such Lender, as the case may be, to permit Eurocurrency Rate Loans to be made in such requested currency. If the Administrative Agent and all the Lenders consent to making Eurocurrency Rate Loans in such requested currency, the Administrative Agent shall so notify the Company and such currency shall thereupon be deemed for all purposes to be an Alternative Currency hereunder for purposes of any Committed Borrowings of Eurocurrency Rate Loans. If the Administrative Agent shall fail to obtain consent to any request for an additional currency under this Section 1.06, the Administrative Agent shall promptly

(d) so notify the Company.

**1.07 Change of Currency.** (a) Each obligation of the Borrowers to make a payment denominated in the national currency unit of any member state of the European Union that adopts the Euro as its lawful currency after the date hereof shall be redenominated into Euro at the time of such adoption. If, in relation to the currency of any such member state, the basis of accrual of interest expressed in this Agreement in respect of that currency shall be inconsistent with any convention or practice in the London interbank market for the basis of accrual of interest in respect of the Euro, such expressed basis shall be replaced by such convention or practice with effect from the date on which such member state adopts the Euro as its lawful currency; provided that if any Committed Borrowing in the currency of such member state is outstanding immediately prior to such date, such replacement shall take effect, with respect to such Committed Borrowing, at the end of the then current Interest Period.

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect the adoption of the Euro by any member state of the European Union and any relevant market conventions or practices relating to the Euro.

(c) Each provision of this Agreement also shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect a change in currency of any other country and any relevant market conventions or practices relating to the change in currency.

**1.08 Times of Day.** Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

**1.09 Letter of Credit Amounts.** Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the Dollar Equivalent of the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the Dollar Equivalent of the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

## **ARTICLE II. THE COMMITMENTS AND CREDIT EXTENSIONS**

**2.01 Committed Loans.** Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each such loan, a "Committed Loan") to the Borrowers in Dollars or in one or more Alternative Currencies from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the amount of such Lender's Commitment; provided, however, that after giving effect to any Committed Borrowing, (i) the Total Outstandings shall not exceed the Aggregate Commitments, (ii) the Revolving Credit Exposure of any Lender shall not exceed such Lender's Commitment, and (iii) the aggregate Outstanding Amount of all Committed Loans denominated in Alternative Currencies shall not exceed the Alternative Currency Sublimit. Within the limits of each Lender's Commitment, and subject to the other terms and conditions hereof, the Borrowers may borrow under this Section 2.01, prepay under Section 2.05, and reborrow under this Section 2.01. Committed Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein.

### **2.02 Borrowings, Conversions and Continuations of Committed Loans.**

(a) Each Committed Borrowing, each conversion of Committed Loans from one Type to the other, and each continuation of Eurocurrency Rate Loans shall be made upon the Company's irrevocable notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Eurocurrency Rate Loans denominated in Dollars or of any conversion of Eurocurrency Rate Loans denominated in Dollars to Base Rate Committed Loans, (ii) four Business Days (or five Business Days in the case of a Special Notice Currency) prior to the requested date of any Borrowing or continuation of Eurocurrency Rate Loans denominated in Alternative Currencies, and (iii) on the requested date of any Borrowing of Base Rate Committed Loans. Each telephonic notice by the Company pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Company. Each Borrowing of, conversion to or continuation of Eurocurrency Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof. Except as provided in Sections 2.03(c) and 2.04(c), each Committed Borrowing of or conversion to Base



Rate Committed Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Committed Loan Notice (whether telephonic or written) shall specify (i) whether the Company is requesting a Committed Borrowing, a conversion of Committed Loans from one Type to the other, or a continuation of Eurocurrency Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Committed Loans to be borrowed, converted or continued, (iv) the Type of Committed Loans to be borrowed or to which existing Committed Loans are to be converted, (v) if applicable, the duration of the Interest Period with respect thereto, (vi) the currency of the Committed Loans to be borrowed, and (vii) if applicable, the Designated Borrower (provided that no Designated Borrower may request a Borrowing in Pesos). If the Company fails to specify a currency in a Committed Loan Notice requesting a Borrowing, then the Committed Loans so requested shall be made in Dollars. If the Company fails to specify a Type of Committed Loan in a Committed Loan Notice or if the Company fails to give a timely notice requesting a conversion or continuation, then the applicable Committed Loans shall be made as, or converted to, Base Rate Loans; provided, however, that in the case of a failure to timely request a continuation of Committed Loans denominated in an Alternative Currency, such Loans shall be continued as Eurocurrency Rate Loans in their original currency with an Interest Period of one month. Any automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurocurrency Rate Loans. If the Company requests a Borrowing of, conversion to, or continuation of Eurocurrency Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. No Committed Loan may be converted into or continued as a Committed Loan denominated in a different currency, but instead must be prepaid in the original currency of such Committed Loan and reborrowed in the other currency.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount (and currency) of its Applicable Percentage of the applicable Committed Loans, and if no timely notice of a conversion or continuation is provided by the Company, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation of Committed Loans denominated in a currency other than Dollars, in each case as described in the preceding subsection. In the case of a Committed Borrowing, each Lender shall make the amount of its Committed Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office for the applicable currency not later than 1:00 p.m., in the case of any Committed Loan denominated in Dollars, and not later than the Applicable Time specified by the Administrative Agent in the case of any Committed Loan in an Alternative Currency, in each case on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Company or the other applicable Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of such Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Company; provided, however, that if, on the date the Committed Loan Notice with respect to such Borrowing denominated in Dollars is given by the Company, there are L/C Borrowings outstanding, then the proceeds of such Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and, second, shall be made available to the applicable Borrower as provided above.

(c) Except as otherwise provided herein, a Eurocurrency Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurocurrency Rate Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Eurocurrency Rate Loans (whether in Dollars or any Alternative Currency) without the consent of the Required Lenders, and during the existence of an Event of Default the Required Lenders may demand that any or all of the then outstanding Eurocurrency Rate Loans denominated in an Alternative Currency be prepaid, or redenominated into Dollars in the amount of the Dollar Equivalent thereof, on the last day of the then current Interest Period with respect thereto.

(d) The Administrative Agent shall promptly notify the Company and the Lenders of the interest rate applicable to any Interest Period for Eurocurrency Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Company and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Committed Borrowings, all conversions of Committed Loans from one Type to the other, and all continuations of Committed Loans as the same Type, there shall not be more than 8 Interest Periods in effect with respect to Committed Loans.



## 2.03 Letters of Credit.

### (a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit denominated in Dollars (except as otherwise may be agreed by the Administrative Agent and the L/C Issuer) for the account of the Company or its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of the Company or its Subsidiaries and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Outstandings shall not exceed the Aggregate Commitments, (y) the Revolving Credit Exposure of any Lender shall not exceed such Lender's Commitment, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by the Company for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Company that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Company's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Company may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof.

(ii) The L/C Issuer shall not issue any Letter of Credit, if:

(A) subject to Section 2.03(b)(iii), the expiry date of the requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Lenders have approved such expiry date; or

(B) the expiry date of the requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Lenders have approved such expiry date.

(iii) The L/C Issuer shall not be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the L/C Issuer from issuing the Letter of Credit, or any Law applicable to the L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon the L/C Issuer with respect to the Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the L/C Issuer in good faith deems material to it;

(B) the issuance of the Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and the L/C Issuer, the Letter of Credit is in an initial stated amount less than \$250,000, in the case of a commercial Letter of Credit, or \$500,000, in the case of a standby Letter of Credit;

(D) except as otherwise agreed by the Administrative Agent and the L/C Issuer, the Letter of Credit is to be denominated in a currency other than Dollars;

(E) the L/C Issuer does not as of the issuance date of the requested Letter of Credit issue Letters of Credit in the requested currency;

(F) any Lender is at that time a Defaulting Lender, unless the L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to the L/C Issuer (in its sole discretion) with the Company or such Lender to eliminate the L/C Issuer's actual or potential



Fronting Exposure (after giving effect to Section 2.17(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which the L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion; or

(G) the Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder.

(iv) The L/C Issuer shall not amend any Letter of Credit if the L/C Issuer would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

(v) The L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) the L/C Issuer would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(vi) The L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term “Administrative Agent” as used in Article IX included the L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to the L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Company delivered to the L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Company. Such Letter of Credit Application may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by the L/C Issuer, by personal delivery or by any other means acceptable to the L/C Issuer. Such Letter of Credit Application must be received by the L/C Issuer and the Administrative Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as the Administrative Agent and the L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount and currency thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as the L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as the L/C Issuer may require. Additionally, the Company shall furnish to the L/C Issuer and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the L/C Issuer or the Administrative Agent may require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Company and, if not, the L/C Issuer will provide the Administrative Agent with a copy thereof. Unless the L/C Issuer has received written notice from any Lender, the Administrative Agent or any Borrower, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Company (or the applicable Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer’s usual and customary business practices. Immediately upon the issuance of each Letter of

Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Applicable Percentage times the amount of such Letter of Credit.

(iii) If the Company so requests in any applicable Letter of Credit Application, the L/C Issuer may, in its sole discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an “Auto-Extension Letter of Credit”); provided that any such Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the “Non-Extension Notice Date”) in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the L/C Issuer, the Company shall not be required to make a specific request to the L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that the L/C Issuer shall not permit any such extension if (A) the L/C Issuer has determined that it would not be permitted, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.03(a) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Lenders have elected not to permit such extension or (2) from the Administrative Agent, any Lender or the Company that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing the L/C Issuer not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the Company and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall notify the Company and the Administrative Agent thereof. Not later than 11:00 a.m. on the date of any payment by the L/C Issuer under a Letter of Credit (each such date, an “Honor Date”), the Company shall reimburse the L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing. If the Company fails to timely reimburse the L/C Issuer on the Honor Date, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the “Unreimbursed Amount”), and the amount of such Lender's Applicable Percentage thereof. In such event, the Company shall be deemed to have requested a Committed Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the Aggregate Commitments and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by the L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the L/C Issuer, in Dollars, at the Administrative Agent's Office for Dollar-denominated payments in an amount equal to its Applicable Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Committed Loan to the Company in such amount. The Administrative Agent shall remit the funds so received to the L/C Issuer in Dollars.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Committed Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Company shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and

payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Lender's payment to the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Lender funds its Committed Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Applicable Percentage of such amount shall be solely for the account of the L/C Issuer.

(v) Each Lender's obligation to make Committed Loans or L/C Advances to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the L/C Issuer, the Company, any Subsidiary or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Committed Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Company of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Company to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, the L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the applicable Overnight Rate from time to time in effect, plus any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Committed Loan included in the relevant Committed Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the L/C Issuer submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Administrative Agent receives for the account of the L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Company or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Applicable Percentage thereof in Dollars and in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the L/C Issuer in its discretion), each Lender shall pay to the Administrative Agent for the account of the L/C Issuer its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the applicable Overnight Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Company to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

- (i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;
- (ii) the existence of any claim, counterclaim, setoff, defense or other right that the Company or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;
- (iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;
- (iv) waiver by the L/C Issuer of any requirement that exists for the L/C Issuer's protection and not the protection of the Company or any waiver by the L/C Issuer which does not in fact materially prejudice the Company;
- (v) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;
- (vi) any payment made by the L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under, such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;
- (vii) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or
- (viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Company or any Subsidiary.

The Company shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Company's instructions or other irregularity, the Company will immediately notify the L/C Issuer. The Company shall be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Lender and the Company agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Company hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Company's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (viii) of Section 2.03(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Company may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Company, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Company which the Company proves were caused by the L/C Issuer's willful misconduct or gross

negligence or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. The L/C Issuer may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(g) Applicability of ISP and UCP; Limitation of Liability. Unless otherwise expressly agreed by the L/C Issuer and the Company when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the UCP shall apply to each commercial Letter of Credit. Notwithstanding the foregoing, the L/C Issuer shall not be responsible to the Company for, and the L/C Issuer's rights and remedies against the Company shall not be impaired by, any action or inaction of the L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where the L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(h) Letter of Credit Fees. The Company shall pay to the Administrative Agent for the account of each Lender in accordance, subject to adjustment as provided in Section 2.17, with its Applicable Percentage, in Dollars, a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit equal to the Applicable Rate times the Dollar Equivalent of the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. Letter of Credit Fees shall be (i) due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(i) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Company shall pay directly to the L/C Issuer for its own account, in Dollars, a fronting fee with respect to each Letter of Credit at a rate equal to 0.125%, computed on the Dollar Equivalent of the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth Business Day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.09. In addition, the Company shall pay directly to the L/C Issuer for its own account, in Dollars, the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(j) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(k) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Company shall be obligated to reimburse the L/C Issuer hereunder for any and all drawings under such Letter of Credit. The Company hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the Company, and that the Company's business derives substantial benefits from the businesses of such Subsidiaries.

## 2.04 Swing Line Loans.

(a) The Swing Line. Subject to the terms and conditions set forth herein, the Swing Line Lender agrees, in reliance upon the agreements of the other Lenders set forth in this Section 2.04, to make loans in Dollars (each such loan, a “Swing Line Loan”) to the Company from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Applicable Percentage of the Outstanding Amount of Committed Loans and L/C Obligations of the Lender acting as Swing Line Lender, may exceed the amount of such Lender’s Commitment; provided, however, that (y) after giving effect to any Swing Line Loan, (i) the Total Outstandings shall not exceed the Aggregate Commitments, and (ii) the Revolving Credit Exposure of any Lender shall not exceed such Lender’s Commitment, and (z) the Swing Line Lender shall not be under any obligation to make any Swing Line Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such Credit Extension may have, Fronting Exposure. Within the foregoing limits, and subject to the other terms and conditions hereof, the Company may borrow under this Section 2.04, prepay under Section 2.05, and reborrow under this Section 2.04. Each Swing Line Loan shall bear interest at the rate described in Section 2.08(a). Immediately upon the making of a Swing Line Loan, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Lender’s Applicable Percentage times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the Company’s irrevocable notice to the Swing Line Lender and the Administrative Agent, which may be given by telephone. Each such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$500,000, and (ii) the requested borrowing date, which shall be a Business Day. Each such telephonic notice must be confirmed promptly by delivery to the Swing Line Lender and the Administrative Agent of a written Swing Line Loan Notice, appropriately completed and signed by a Responsible Officer of the Company. Promptly after receipt by the Swing Line Lender of any telephonic Swing Line Loan Notice, the Swing Line Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Administrative Agent (by telephone or in writing) of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any Lender) prior to 2:00 p.m. on the date of the proposed Swing Line Borrowing (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the first proviso to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender will, not later than 3:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Company at its office by crediting the account of the Company on the books of the Swing Line Lender in Same Day Funds or by initiating a wire transfer of such funds as directed by the Company.

(c) Refinancing of Swing Line Loans.

(i) The Swing Line Lender at any time in its sole discretion may request, on behalf of the Company (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Lender make a Base Rate Committed Loan in an amount equal to such Lender’s Applicable Percentage of the amount of Swing Line Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Aggregate Commitments and the conditions set forth in Section 4.02. The Swing Line Lender shall furnish the Company with a copy of the applicable Committed Loan Notice promptly after delivering such notice to the Administrative Agent. Each Lender shall make an amount equal to its Applicable Percentage of the amount specified in such Committed Loan Notice available to the Administrative Agent in Same Day Funds (and the Administrative Agent may apply Cash Collateral available with respect to the applicable Swing Line Loan) for the account of the Swing Line Lender at the Administrative Agent’s Office for Dollar-denominated payments not later than 1:00 p.m. on the day specified in such Committed Loan Notice, whereupon, subject to Section 2.04(c)(ii), each Lender that so makes funds available shall be



deemed to have made a Base Rate Committed Loan to the Company in such amount. The Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Committed Borrowing in accordance with Section 2.04(c)(i), the request for Base Rate Committed Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Lenders fund its risk participation in the relevant Swing Line Loan and each Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swing Line Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the applicable Overnight Rate from time to time in effect, plus any administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Committed Loan included in the relevant Committed Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Lender's obligation to make Committed Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, the Company or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Committed Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02. No such funding of risk participations shall relieve or otherwise impair the obligation of the Company to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Lender its Applicable Percentage thereof in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Lender shall pay to the Swing Line Lender its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the applicable Overnight Rate. The Administrative Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Company for interest on the Swing Line Loans. Until each Lender funds its Base Rate Committed Loan or risk participation pursuant to this Section 2.04 to refinance such Lender's Applicable Percentage of any Swing Line Loan, interest in respect of such Applicable Percentage shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. The Company shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

**2.05 Prepayments.** (a) Each Borrower may, upon notice from the Company to the Administrative Agent, at any time or from time to time voluntarily prepay Committed Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Administrative Agent not later than 11:00 a.m.

(A) three Business Days prior to any date of prepayment of Eurocurrency Rate Loans denominated in Dollars, (B) four Business Days (or five, in the case of prepayment of Loans denominated in Special Notice Currencies) prior to any date of prepayment of Eurocurrency Rate Loans denominated in Alternative Currencies, and (C) on the date of prepayment of Base Rate Committed Loans; (ii) any prepayment of Eurocurrency Rate Loans denominated in Dollars shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof; (iii) any prepayment of Eurocurrency Rate Loans denominated in Alternative Currencies shall be in a minimum principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof; and (iv) any prepayment of Base Rate Committed Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Committed Loans to be prepaid and, if Eurocurrency Rate Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Company, the applicable Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurocurrency Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Subject to Section 2.17, each such prepayment shall be applied to the Committed Loans of the Lenders in accordance with their respective Applicable Percentages.

(b) The Company may, upon notice to the Swing Line Lender (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the date of the prepayment, and (ii) any such prepayment shall be in a minimum principal amount of \$100,000. Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Company, the Company shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(c) If the Administrative Agent notifies the Company at any time that the Total Outstandings at such time exceed an amount equal to 105% of the Aggregate Commitments then in effect, then, within two Business Days after receipt of such notice, the Borrowers shall prepay Loans and/or the Company shall Cash Collateralize the L/C Obligations in an aggregate amount at least equal to such excess; provided, however, that, subject to the provisions of Section 2.16(a), the Company shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.05(c) unless after the prepayment in full of the Loans the Total Outstandings exceed the Aggregate Commitments then in effect. The Administrative Agent may, at any time and from time to time after the initial deposit of such Cash Collateral, request that additional Cash Collateral be provided in order to protect against the results of exchange rate fluctuations.

(d) If the Administrative Agent notifies the Company at any time that the Outstanding Amount of all Loans denominated in Alternative Currencies at such time exceeds an amount equal to 105% of the Alternative Currency Sublimit then in effect, then, within two Business Days after receipt of such notice, the Borrowers shall prepay Loans in an aggregate amount sufficient to reduce such Outstanding Amount as of such date of payment to an amount not to exceed 100% of the Alternative Currency Sublimit then in effect.

**2.06 Termination or Reduction of Commitments.** The Company may, upon notice to the Administrative Agent, terminate the Aggregate Commitments, or from time to time permanently reduce the Aggregate Commitments; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. five Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$5,000,000 or any whole multiple of \$1,000,000 in excess thereof, (iii) the Company shall not terminate or reduce the Aggregate Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Outstandings would exceed the Aggregate Commitments, and (iv) if, after giving effect to any reduction of the Aggregate Commitments, the Alternative Currency Sublimit, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Aggregate Commitments, such Sublimit shall be automatically reduced by the amount of such excess. The Administrative Agent will promptly notify the Lenders of any such notice of termination or reduction of the Aggregate Commitments. The amount of any such Aggregate Commitment reduction shall not be applied to the Letter of Credit Sublimit unless otherwise specified by the Company. Any reduction of the Aggregate Commitments shall be applied to the Commitment of each Lender according to its Applicable Percentage. All fees accrued until the effective date of any termination of the Aggregate Commitments shall be paid on the effective date of such termination.

**2.07 Repayment of Loans.** (a) Each Borrower shall repay to the Lenders on the Maturity Date the aggregate principal amount of Committed Loans made to such Borrower outstanding on such date. With respect to any Committed Loan made in Mexican Pesos, and in accordance with the Mexican Law of Credit Institutions (*Ley de Instituciones de Crédito*), the Loan Documents, together with any deliveries made by or on behalf of the Borrowers hereunder, will act in a court of law as a credit instrument subject to summary judgment, without need to verify signatures or other requirements.

(b) The Company shall repay each Swing Line Loan on the earlier to occur of (i) the date fifteen Business Days after such Loan is made and (ii) the Maturity Date. Swing Line Loans may be repaid with proceeds of other Swing Line Loans.

**2.08 Interest.** (a) Subject to the provisions of subsection (b) below, (i) each Eurocurrency Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurocurrency Rate for such Interest Period plus the Applicable Rate plus (in the case of a Eurocurrency Rate Loan of any Lender which is lent from a Lending Office in the United Kingdom or a Participating Member State) the Mandatory Cost, if any; provided that no Lender shall fund Eurocurrency Rate Loans from such a Lending Office if by using commercially reasonable efforts such Lender could fund such Loans from another Lending Office without incurring such Mandatory Cost; (ii) each Base Rate Committed Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate; and (iii) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Daily Floating Rate plus the Applicable Rate.

(b) (i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any amount (other than principal of any Loan) payable by any Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iii) Upon the request of the Required Lenders, while any Event of Default exists (other than as set forth in clauses (b)(i) and (b)(ii) above), the Borrowers shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(iv) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

(d) For the purposes of the Interest Act (Canada), (i) whenever a rate of interest or fee rate hereunder is calculated on the basis of a year (the “deemed year”) that contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest or fee rate shall be expressed as a yearly rate by multiplying such rate of interest or fee rate by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year, (ii) the principle of deemed reinvestment of interest shall not apply to any interest calculation hereunder and (iii) the rates of interest stipulated herein are intended to be nominal rates and not effective rates or yields.

**2.09 Fees.** In addition to certain fees described in subsections (h) and (i) of Section 2.03:

(a) Commitment Fee. Except as set forth in Section 2.17(a)(iii)(A) with respect to Defaulting Lenders, the Company shall pay to the Administrative Agent for the account of each Lender in accordance with its Applicable Percentage, a commitment fee in Dollars equal to the Applicable Rate times the actual daily amount by which the Aggregate Commitments exceed the sum of (i) the Outstanding Amount of Committed Loans and (ii) the Outstanding Amount of L/C Obligations, subject to adjustment as provided in Section 2.17. For the avoidance of

doubt, the Outstanding Amount of Swing Line Loans shall not be counted towards or considered usage of the Aggregate Commitments for purposes of determining the commitment fee. The commitment fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period. The commitment fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(c) Other Fees. (i) The Company shall pay to Merrill Lynch and the Administrative Agent for their own respective accounts, in Dollars, fees in the amounts and at the times specified in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(ii) The Company shall pay to the Lenders, in Dollars, such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

**2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate.** (a) All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Eurocurrency Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year), or, in the case of interest in respect of Committed Loans denominated in Alternative Currencies as to which market practice differs from the foregoing, in accordance with such market practice. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) If, as a result of any restatement of or other adjustment to the financial statements of the Company or for any other reason, the Company or the Lenders determine that (i) the Consolidated Leverage Ratio as calculated by the Company as of any applicable date was inaccurate and (ii) a proper calculation of the Consolidated Leverage Ratio would have resulted in higher pricing for such period, each Borrower shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders or the L/C Issuer, as the case may be, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to any Borrower under the Bankruptcy Code of the United States, automatically and without further action by the Administrative Agent, any Lender or the L/C Issuer), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This paragraph shall not limit the rights of the Administrative Agent, any Lender or the L/C Issuer, as the case may be, under Section 2.03(c)(iii), 2.03(h) or 2.08(b) or under Article VIII. The Company's obligations under this paragraph shall survive the termination of the Aggregate Commitments and the repayment of all other Obligations hereunder.

**2.11 Evidence of Debt.** (a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender to a Borrower made through the Administrative Agent, such Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans to such Borrower in addition to such accounts or records. Each Lender may attach schedules to a Note and endorse thereon the date, Type (if applicable), amount, currency and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in subsection (a) above, each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the

purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

**2.12 Payments Generally; Administrative Agent's Clawback.** (a) General. All payments to be made by the Borrowers shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein and except with respect to principal of and interest on Loans denominated in an Alternative Currency, all payments by the Borrowers hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office in Dollars and in Same Day Funds not later than 2:00 p.m. on the date specified herein. Except as otherwise expressly provided herein, all payments by the Borrowers hereunder with respect to principal and interest on Loans denominated in an Alternative Currency shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office in such Alternative Currency and in Same Day Funds not later than the Applicable Time specified by the Administrative Agent on the dates specified herein. Without limiting the generality of the foregoing, the Administrative Agent may require that any payments due under this Agreement be made in the United States. If, for any reason, any Borrower is prohibited by any Law from making any required payment hereunder in an Alternative Currency, such Borrower shall make such payment in Dollars in the Dollar Equivalent of the Alternative Currency payment amount. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent (i) after 2:00 p.m., in the case of payments in Dollars, or (ii) after the Applicable Time specified by the Administrative Agent in the case of payments in an Alternative Currency, shall in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. Notwithstanding the foregoing sentence, if any payment is received on the Business Day when due, the receipt of such payment after 2:00 p.m. shall not be deemed to be Default or an Event of Default under Section 8.01(a)(i). If any payment to be made by any Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Committed Borrowing of Eurocurrency Rate Loans (or, in the case of any Committed Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Committed Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Committed Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Committed Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Committed Borrowing available to the Administrative Agent, then the applicable Lender and the applicable Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to such Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the Overnight Rate, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by such Borrower, the interest rate applicable to Base Rate Loans. If such Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to such Borrower the amount of such interest paid by such Borrower for such period. If such Lender pays its share of the applicable Committed Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Committed Loan included in such Committed Borrowing. Any payment by such Borrower shall be without prejudice to any claim such Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrowers; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from a Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the L/C Issuer hereunder that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the L/C Issuer, as the case may be, the

amount due. In such event, if such Borrower has not in fact made such payment, then each of the Lenders or the L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the Overnight Rate.

A notice of the Administrative Agent to any Lender or Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender to any Borrower as provided in the foregoing provisions of this Article II, and such funds are not made available to such Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Committed Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Lender to make any Committed Loan, to fund any such participation or to make any payment under Section 10.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Committed Loan, to purchase its participation or to make its payment under Section 10.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

**2.13 Sharing of Payments by Lenders.** If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Committed Loans made by it, or the participations in L/C Obligations or in Swing Line Loans held by it resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Committed Loans or participations and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Committed Loans and subparticipations in L/C Obligations and Swing Line Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Committed Loans and other amounts owing them, provided that:

- (i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and
- (ii) the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of any Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in Section 2.16, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Committed Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant, other than an assignment to the Company or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

**2.14 Designated Borrowers.** (a) Effective as of the date hereof, each of Quaker Chemical Corporation, a Delaware corporation, Epmar Corporation, Quaker Chemical B.V., and Quaker Chemical Europe B.V. shall be a "Designated Borrower" hereunder and may receive Loans for its account on the terms and conditions set forth in this Agreement. For the avoidance of doubt, each of Quaker Chemical B.V. and Quaker Chemical Europe B.V. shall be liable only for the Obligations under the Committed Loans either made to it by the Lenders or advanced to it by the

Company from proceeds of Advances to the Company, in each case, remaining outstanding, and shall not be jointly and severally liable for the Obligations of the Borrowers for any Committed Loans.

(b) The Company may at any time, upon not less than 15 Business Days' notice from the Company to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its sole discretion), designate any additional Subsidiary of the Company (an "Applicant Borrower") as a Designated Borrower to receive Loans hereunder by delivering to the Administrative Agent (which shall promptly deliver counterparts thereof to each Lender) a duly executed notice and agreement in substantially the form of Exhibit H (a "Designated Borrower Request and Assumption Agreement"). The parties hereto acknowledge and agree that prior to any Applicant Borrower becoming entitled to utilize the credit facilities provided for herein the Administrative Agent and the Lenders shall have received such supporting resolutions, incumbency certificates, opinions of counsel, financial information and other documents or information, in form, content and scope reasonably satisfactory to the Administrative Agent, as may be required by the Administrative Agent or the Lenders in their sole discretion, and Notes signed by such new Borrowers to the extent any Lenders so require. If the Administrative Agent and the Lenders agree that an Applicant Borrower shall be entitled to receive Loans hereunder, then promptly following receipt of all such requested resolutions, incumbency certificates, opinions of counsel and other documents or information, the Administrative Agent shall send a notice in substantially the form of Exhibit I (a "Designated Borrower Notice") to the Company and the Lenders specifying the effective date upon which the Applicant Borrower shall constitute a Designated Borrower for purposes hereof, whereupon each of the Lenders agrees to permit such Designated Borrower to receive Loans hereunder, on the terms and conditions set forth herein, and each of the parties agrees that such Designated Borrower otherwise shall be a Borrower for all purposes of this Agreement; provided that no Committed Loan Notice or Letter of Credit Application may be submitted by or on behalf of such Designated Borrower until the date five Business Days after such effective date.

(c) The Obligations of the Company and each Designated Borrower that is a Domestic Subsidiary shall be joint and several in nature. The Obligations of all Designated Borrowers that are Foreign Subsidiaries shall be several in nature in the same manner as are Quaker Chemical B.V. and Quaker Chemical Europe B.V. as provided in clause (a) above.

(d) Each Subsidiary of the Company that is or becomes a "Designated Borrower" pursuant to this Section 2.14 hereby irrevocably appoints the Company as its agent for all purposes relevant to this Agreement and each of the other Loan Documents, including (i) the giving and receipt of notices, (ii) the execution and delivery of all documents, instruments and certificates contemplated herein and all modifications hereto, and (iii) the receipt of the proceeds of any Loans made by the Lenders to any such Designated Borrower hereunder. Any acknowledgment, consent, direction, certification or other action which might otherwise be valid or effective only if given or taken by all Borrowers, or by each Borrower acting singly, shall be valid and effective if given or taken only by the Company, whether or not any such other Borrower joins therein. Any notice, demand, consent, acknowledgement, direction, certification or other communication delivered to the Company in accordance with the terms of this Agreement shall be deemed to have been delivered to each Designated Borrower.

## **2.15 Increase in Commitments.**

(a) Request for Increase. Provided there exists no Default, upon notice to the Administrative Agent (which shall promptly notify the Lenders), the Company may from time to time, request an increase in the Aggregate Commitments (which increase may take the form of new revolving or term loan tranches) by an amount (for all such requests) not exceeding \$100,000,000; provided that (i) any such request for an increase shall be in a minimum amount of \$5,000,000 or incremental amounts in excess thereof equal to \$1,000,000 and (ii) the Company may make a maximum of 4 such requests. At the time of sending such notice, the Company (in consultation with the Administrative Agent) shall specify the time period within which each Lender is requested to respond (which shall in no event be less than ten Business Days from the date of delivery of such notice to the Lenders).

(b) Lender Elections to Increase. Each Lender shall notify the Administrative Agent within such time period whether or not it agrees to increase its Commitment and, if so, whether by an amount equal to, greater than, or less than its Applicable Percentage of such requested increase. Any Lender not responding within such time period shall be deemed to have declined to increase its Commitment.

(c) Notification by Administrative Agent; Additional Lenders. The Administrative Agent shall notify the Company and each Lender of the Lenders' responses to each request made hereunder. To achieve the full amount of a requested increase and subject to the approval of the Administrative Agent, the L/C Issuer and the Swing Line

Lender (which approvals shall not be unreasonably withheld), the Company may also invite additional Eligible Assignees to become Lenders pursuant to a joinder agreement in form and substance satisfactory to the Administrative Agent and its counsel.

(d) Effective Date and Allocations. If the Aggregate Commitments are increased in accordance with this Section, the Administrative Agent and the Company shall determine the effective date (the “Increase Effective Date”) and the final allocation of such increase. The Administrative Agent shall promptly notify the Company and the Lenders of the final allocation of such increase and the Increase Effective Date.

(e) Conditions to Effectiveness of Increase. As a condition precedent to such increase, (i) the Company shall deliver to the Administrative Agent a certificate of each Borrower dated as of the Increase Effective Date (in sufficient copies for each Lender) signed by a Responsible Officer of such Borrower (x) certifying and attaching the resolutions adopted by such Borrower approving or consenting to such increase (which certification may be a bringdown of the resolutions delivered on the Closing Date pursuant to Section 4.01), and (y) in the case of the Company, certifying that, before and after giving effect to such increase, (A) the representations and warranties contained in Article V and the other Loan Documents are true and correct on and as of the Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and except that for purposes of this Section 2.15, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01, and (B) no Default exists and (ii) to the extent that the increase of the Aggregate Commitments shall take the form of a term loan tranche, this Agreement shall be amended, in form and substance satisfactory to the Administrative Agent, the Required Lenders and the Borrowers, to include such terms as are customary for a term loan commitment. The Borrowers shall prepay any Committed Loans outstanding on the Increase Effective Date (and pay any additional amounts required pursuant to Section 3.05) to the extent necessary to keep the outstanding Committed Loans ratable with any revised Applicable Percentages arising from any nonratable increase in the Commitments under this Section.

(f) Conflicting Provisions. This Section shall supersede any provisions in Section 2.13 or 10.01 to the contrary.

## **2.16 Cash Collateral.**

(a) Certain Credit Support Events. If (i) as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, (ii) the Company shall be required to provide Cash Collateral pursuant to Section 8.02(c), or (iii) there shall exist a Defaulting Lender, the Company shall immediately (in the case of clause (iii) above) or within one Business Day (in all other cases) following any request by the Administrative Agent or the L/C Issuer, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to clause (iii) above, after giving effect to Section 2.17(a)(iv) and any Cash Collateral provided by the Defaulting Lender). Additionally, if the Administrative Agent notifies the Company at any time that the Outstanding Amount of all L/C Obligations at such time exceeds 105% of the Letter of Credit Sublimit then in effect, then, within two Business Days after receipt of such notice, the Company shall provide Cash Collateral for the Outstanding Amount of the L/C Obligations in an amount not less than the amount by which the Outstanding Amount of all L/C Obligations exceeds the Letter of Credit Sublimit. For the sake of clarity, no Cash Collateral need be provided to the extent that all or any part of any Defaulting Lender’s participation in L/C Obligations and Swing Line Loans shall have been reallocated among the Non-Defaulting Lenders pursuant to clause Section 2.17(a)(iv) below and any required Cash Collateral has been provided to such Non-Defaulting Lenders with respect to such L/C obligations and Swing Line Loans.

(b) Grant of Security Interest. The Company, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuer and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.16(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or the L/C Issuer as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Company will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America.



The Company shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.16 or Sections 2.03, 2.05, 2.17 or 8.02 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 10.06(b)(vi)) or (ii) the determination by the Administrative Agent and the L/C Issuer that there exists excess Cash Collateral; provided, however, the Person providing Cash Collateral and the L/C Issuer may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

## **2.17 Defaulting Lenders.**

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders" and Section 10.01.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the L/C Issuer or Swing Line Lender hereunder; third, to Cash Collateralize the L/C Issuer's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.16; fourth, as the Company may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Company, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuer's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.16; sixth, to the payment of any amounts owing to the Lenders, the L/C Issuer or Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the L/C Issuer or the Swing Line Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default exists, to the payment of any amounts owing to the Company as a result of any judgment of a court of competent jurisdiction obtained by the Company against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swing Line Loans are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.17(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender

that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.17(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee payable under Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and the Company shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.16.

(C) With respect to any fee payable under Section 2.09(a) or any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Company shall, to the extent the Company has not provided Cash Collateral with respect to such L/C Obligation or Swing Line Loans, (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations or Swing Line Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to the L/C Issuer and Swing Line Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's or Swing Line Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(v) Reallocation of Applicable Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations and Swing Line Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (x) the conditions set forth in Section 4.02 are satisfied at the time of such reallocation (and, unless the Company shall have otherwise notified the Administrative Agent at such time, the Company shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(vi) Cash Collateral, Repayment of Swing Line Loans. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Company shall, without prejudice to any right or remedy available to it hereunder or under applicable Law, (x) first, prepay Swing Line Loans in an amount equal to the Swing Line Lenders' Fronting Exposure and (y) second, Cash Collateralize the L/C Issuers' Fronting Exposure in accordance with the procedures set forth in Section 2.16.

(b) Defaulting Lender Cure. If the Company, the Administrative Agent, Swing Line Lender and the L/C Issuer agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Committed Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.17(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Company while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

**ARTICLE III.**  
**TAXES, YIELD PROTECTION AND ILLEGALITY**

**3.01 Taxes.**

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes. Any and all payments by or on account of any obligation of any Borrower under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Laws. If any applicable Laws (as determined in the good faith discretion of the Administrative Agent or a Borrower) require the deduction or withholding of any Tax from any such payment by the Administrative Agent or a Borrower, then the Administrative Agent or such Borrower shall be entitled to make such deduction or withholding and shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such Laws, and to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Borrower shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Borrowers. Without limiting the provisions of subsection (a) above, the Borrowers shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Tax Indemnifications. (i) Each of the Borrowers shall, and does hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Company by a Lender or the L/C Issuer (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or the L/C Issuer, shall be conclusive absent manifest error.

(ii) Each Lender and the L/C Issuer shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (x) the Administrative Agent against any Indemnified Taxes attributable to such Lender or the L/C Issuer (but only to the extent that any Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (y) the Administrative Agent and the Borrower, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.06(d) relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Borrower, as applicable, against any Excluded Taxes attributable to such Lender or the L/C Issuer, in each case, that are payable or paid by the Administrative Agent or a Borrower in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender and the L/C Issuer hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or the L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this clause (ii).

(iii) Notwithstanding anything to the contrary in this Article III, no Subsidiary that is not a U.S. Person shall be liable for payment of additional amounts or indemnification with respect to any Indemnified Taxes (and reasonable expenses arising therefrom) attributable to Obligations hereunder of a Borrower that is a U.S. Person.

(d) Evidence of Payments. Upon request by the Company or the Administrative Agent, as the case may be, after any payment of Taxes by any Borrower or by the Administrative Agent to a Governmental Authority as provided in this Section 3.01, the Company shall deliver to the Administrative Agent or the Administrative Agent shall deliver to the Company, as the case may be, the original or a certified copy of a receipt issued by such

Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Company or the Administrative Agent, as the case may be.

(e) Status of Lenders; Tax Documentation. (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Company and the Administrative Agent, at the time or times reasonably requested by the Company or the Administrative Agent, such properly completed and executed documentation prescribed by applicable Law or the taxing authorities of a jurisdiction pursuant to such applicable Law or reasonably requested by the Company or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Company or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Company or the Administrative Agent as will enable the Company or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation either (A) set forth in Section 3.01(e)(ii)(A), (ii)(B) and (ii)(D) below or (B) required by applicable Law other than the Code or the taxing authorities of the jurisdiction pursuant to such applicable Law to comply with the requirements for exemption or reduction of withholding tax in that jurisdiction) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that a Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Company and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Company or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Company and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Company or the Administrative Agent), whichever of the following is applicable:

(I) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(II) executed originals of IRS Form W-8ECI;

(III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit K-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Company within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed originals of IRS Form W-8BEN; or

(IV) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, a U.S. Tax Compliance Certificate substantially in the form of Exhibit K-2 or Exhibit K-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax

Compliance Certificate substantially in the form of Exhibit K-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Company and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Company or the Administrative Agent), executed originals of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Company or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Company and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Company or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Company or the Administrative Agent as may be necessary for the Company and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Company and the Administrative Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or the L/C Issuer, or have any obligation to pay to any Lender or the L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or the L/C Issuer, as the case may be. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Borrower or with respect to which any Borrower has paid additional amounts pursuant to this Section 3.01, it shall pay to such Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by a Borrower under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that each Borrower, upon the request of the Recipient, agrees to repay the amount paid over to such Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to such Borrower pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Borrower or any other Person.

(g) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender or the L/C Issuer, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

**3.02 Illegality.** If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurocurrency Rate (whether denominated in Dollars or an Alternative Currency), or to determine or charge interest rates based upon the Eurocurrency Rate, or any

Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars or any Alternative Currency in the applicable interbank market, then, on notice thereof by such Lender to the Company through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurocurrency Rate Loans in the affected currency or currencies or, in the case of Eurocurrency Rate Loans in Dollars, to convert Base Rate Committed Loans to Eurocurrency Rate Loans, shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Eurocurrency Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Company that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrowers shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable and such Loans are denominated in Dollars, convert all Eurocurrency Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurocurrency Rate, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurocurrency Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurocurrency Rate. Upon any such prepayment or conversion, the Borrowers shall also pay accrued interest on the amount so prepaid or converted.

**3.03 Inability to Determine Rates.** If in connection with any request for a Eurocurrency Rate Loan or a conversion to or continuation thereof, (a) the Administrative Agent determines that (i) deposits (whether in Dollars or an Alternative Currency) are not being offered to banks in the applicable offshore interbank market for such currency for the applicable amount and Interest Period of such Eurocurrency Rate Loan, or (ii) adequate and reasonable means do not exist for determining the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan (whether denominated in Dollars or an Alternative Currency) or in connection with an existing or proposed Base Rate Loan, or (b) the Required Lenders determine that for any reason the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Eurocurrency Rate Loan, the Administrative Agent will promptly so notify the Company and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans in the affected currency or currencies shall be suspended, (to the extent of the affected Eurocurrency Rate Loans or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Eurocurrency Rate component of the Base Rate, the utilization of the Eurocurrency Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Company may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans in the affected currency or currencies or, failing that, will be deemed to have converted such request into a request for a Committed Borrowing of Base Rate Loans in the amount specified therein.

Notwithstanding the foregoing, in the case of a pending request for a Eurocurrency Loan or conversion or continuation in an Alternative Currency as to which the Administrative Agent has made the determination described in clause (a) of the first sentence of this paragraph, the Borrower, the Administrative Agent and the Required Lenders may establish a mutually acceptable alternative interest rate that reflects the all-in-cost of funds to such Lenders.

### **3.04 Increased Costs; Reserves on Eurocurrency Rate Loans.**

(a) Increased Costs Generally. If any Change in Law shall:

- (i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except (A) any reserve requirement contemplated by Section 3.04(e), other than as set forth below) or the L/C Issuer;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iv) impose on any Lender or the L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or Eurocurrency Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan the interest on which is determined by reference to the Eurocurrency Rate (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or the L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or the L/C Issuer, the Company will pay (or cause the applicable Designated Borrower to pay) to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or the L/C Issuer determines that any Change in Law affecting such Lender or the L/C Issuer or any Lending Office of such Lender or such Lender's or the L/C Issuer's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the L/C Issuer's capital or on the capital of such Lender's or the L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit or Swing Line Loans held by, such Lender, or the Letters of Credit issued by the L/C Issuer, to a level below that which such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the L/C Issuer's policies and the policies of such Lender's or the L/C Issuer's holding company with respect to capital adequacy), then from time to time the Company will pay (or cause the applicable Designated Borrower to pay) to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or the L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Company shall be conclusive absent manifest error. The Company shall pay (or cause the applicable Designated Borrower to pay) such Lender or the L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or the L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's or the L/C Issuer's right to demand such compensation, provided that no Borrower shall be required to compensate a Lender or the L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender or the L/C Issuer, as the case may be, notifies the Company of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Additional Reserve Requirements. The Company shall pay (or cause the applicable Designated Borrower to pay) to each Lender, (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurocurrency Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Eurocurrency Rate Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which

determination shall be conclusive), which in each case shall be due and payable on each date on which interest is payable on such Loan, provided the Company shall have received at least 10 days' prior notice (with a copy to the Administrative Agent) of such additional interest or costs from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest or costs shall be due and payable 10 days from receipt of such notice.

**3.05 Compensation for Losses.** Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Company shall promptly compensate (or cause the applicable Designated Borrower to compensate) such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

- (a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);
- (b) any failure by any Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Company or the applicable Designated Borrower;
- (c) any failure by any Borrower to make payment of any Loan (or interest due thereon) denominated in an Alternative Currency on its scheduled due date or any payment thereof in a different currency; or
- (d) any assignment of a Eurocurrency Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Company pursuant to Section 10.13;

excluding any loss of anticipated profits, based on margin, but including, any foreign exchange losses and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan, from fees payable to terminate the deposits from which such funds were obtained or from the performance of any foreign exchange contract. The Company shall also pay (or cause the applicable Designated Borrower to pay) any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Company (or the applicable Designated Borrower) to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurocurrency Rate Loan made by it at the Eurocurrency Rate for such Loan by a matching deposit or other borrowing in the offshore interbank market for such currency for a comparable amount and for a comparable period, whether or not such Eurocurrency Rate Loan was in fact so funded.

### **3.06 Mitigation Obligations; Replacement of Lenders.**

- (a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or requires any Borrower to pay any Indemnified Taxes or additional amounts to any Lender, the L/C Issuer, or any Governmental Authority for the account of any Lender or the L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Company such Lender or the L/C Issuer shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or the L/C Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or the L/C Issuer, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or the L/C Issuer, as the case may be. The Company hereby agrees to pay (or cause the applicable Designated Borrower to pay) all reasonable costs and expenses incurred by any Lender or the L/C Issuer in connection with any such designation or assignment.
- (b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if any Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), if any Lender is a Defaulting Lender or is a Non-Consenting Lender, the Company may replace such Lender in accordance with Section 10.13.



**3.07 Survival.** All obligations of the Borrowers under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder, and resignation of the Administrative Agent.

## **ARTICLE IV. CONDITIONS PRECEDENT TO CREDIT EXTENSIONS**

**4.01 Conditions of Initial Credit Extension.** The obligation of the L/C Issuer and each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

- (a) The Administrative Agent's receipt of the following, each of which shall be originals or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Borrower, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to the Administrative Agent and each of the Lenders:
- (i) executed counterparts of this Agreement, sufficient in number for distribution to the Administrative Agent, each Lender and the Company;
  - (ii) Notes executed by the Borrowers in favor of each Lender requesting Notes;
  - (iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Borrower as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Borrower is a party;
  - (iv) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Borrower is duly organized or formed, and that each of the Borrowers is validly existing, in good standing (to the extent such certification is available) and qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect;
  - (v) a favorable opinion of Drinker Biddle & Reath LLP, counsel to the domestic Borrowers, and Baker & McKenzie, counsel to the Foreign Obligors in form and substance reasonably acceptable to Administrative Agent and its counsel and addressed to Administrative Agent and each Lender and;
  - (vi) a certificate of a Responsible Officer of each Borrower either (A) attaching copies of all consents, licenses and approvals required in connection with the execution, delivery and performance by such Borrower and the validity against such Borrower of the Loan Documents to which it is a party, and such consents, licenses and approvals shall be in full force and effect, or (B) stating that no such consents, licenses or approvals are so required;
  - (vii) a certificate signed by a Responsible Officer of the Company certifying (A) that the conditions specified in Sections 4.02(a) and (b) have been satisfied, (B) that there has been no event or circumstance since the date of the Audited Financial Statements that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect; and (C) a calculation of the Consolidated Leverage Ratio as of the last day of the fiscal quarter of the Company most recently ended prior to the Closing Date;
  - (viii) a duly completed Compliance Certificate as of the last day of the fiscal quarter of the Company ended on March 31, 2013, signed by a Responsible Officer of the Company;
  - (ix) evidence that all insurance required to be maintained pursuant to the Loan Documents has been obtained and is in effect;
  - (x) evidence that the Existing Credit Agreement has been or concurrently with the Closing Date is being terminated; and

(xi) such other assurances, certificates, documents, consents or opinions as the Administrative Agent, the L/C Issuer, the Swing Line Lender or the Required Lenders reasonably may require.

(b) Any fees required to be paid on or before the Closing Date shall have been paid.

(c) Unless waived by the Administrative Agent, the Company shall have paid all fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent) to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings ( provided that such estimate shall not thereafter preclude a final settling of accounts between the Company and the Administrative Agent).

(d) The Closing Date shall have occurred on or before June 14, 2013.

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

**4.02 Conditions to all Credit Extensions.** The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Committed Loans to the other Type, or a continuation of Eurocurrency Rate Loans) is subject to the following conditions precedent:

(a) The representations and warranties of (i) the Borrowers contained in Article V and (ii) each Borrower contained in each other Loan Document, or which are contained in any document delivered pursuant hereto, shall be true and correct in all material respects on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date, and except that for purposes of this Section 4.02, the representations and warranties contained in subsections (a) and (b) of Section 5.05 shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the L/C Issuer or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) If the applicable Borrower is a Designated Borrower, then the conditions of Section 2.14 to the designation of such Borrower as a Designated Borrower (other than a Designated Borrower identified on the date hereof in Section 2.14(a)) shall have been met to the satisfaction of the Administrative Agent.

(e) In the case of a Credit Extension to be denominated in an Alternative Currency, there shall not have occurred any change in national or international financial, political or economic conditions or currency exchange rates or exchange controls which in the reasonable opinion of the Administrative Agent, the Required Lenders (in the case of any Loans to be denominated in an Alternative Currency) or the L/C Issuer (in the case of any Letter of Credit to be denominated in an Alternative Currency) would make it impracticable for such Credit Extension to be denominated in the relevant Alternative Currency.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Committed Loans to the other Type or a continuation of Eurocurrency Rate Loans) submitted by the Company shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

## **ARTICLE V. REPRESENTATIONS AND WARRANTIES**

Except as otherwise provided in Section 5.20, each Borrower, as to itself and to each Restricted Subsidiary, represents and warrants to the Administrative Agent and the Lenders that:

**5.01 Existence, Qualification and Power.** Each Borrower and each Restricted Subsidiary that has contributed at least 5% of consolidated revenue of the Company and its Subsidiaries as of the most recent ended fiscal year (a) is duly organized or formed, validly existing and in good standing or validly subsisting (to the extent such concepts are relevant under the Laws of the applicable jurisdiction of incorporation or organization) under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and is licensed and in good standing (to the extent such concept is relevant under the Laws of the applicable jurisdiction of incorporation or organization) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license, and (d) assuming each of the Lenders is a Professional Market Party, is in compliance with all Laws; except in each case referred to in clause (b)(i), (c) or (d), to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect.

**5.02 Authorization; No Contravention.** The execution, delivery and performance by each Borrower of each Loan Document to which such Person is party, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) assuming each of the Lenders is a Professional Market Party, violate any Law.

**5.03 Governmental Authorization; Other Consents.** Assuming each of the Lenders is a Professional Market Party, no approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Borrower of this Agreement or any other Loan Document except as may have been obtained.

**5.04 Binding Effect.** This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Borrower that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Borrower, enforceable against each Borrower that is party thereto in accordance with its terms, except to the extent that such enforceability may be limited by bankruptcy, receivership, moratorium, conservatorship, or other laws of general application affecting the rights of creditors generally or by general principles of equity.

**5.05 Financial Statements; No Material Adverse Effect.**

(a) (a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Company and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Company and its Subsidiaries required under GAAP to be disclosed thereon as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(b) (b) The unaudited consolidated balance sheets of the Company and its Subsidiaries dated March 31, 2013, and the related consolidated statements of income or operations, shareholders' equity and cash flows for the fiscal quarter ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present the financial condition of the Company and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.

(c) Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or would reasonably be expected to have a Material Adverse Effect.

(d) Since the date of the Audited Financial Statements, no Internal Control Event has occurred that is required to be disclosed under the Securities Exchange Act and rules and regulations promulgated thereunder other than has been timely disclosed pursuant to Section 6.02(d).

(e) The consolidated forecasted balance sheet and statements of income and cash flows of the Company and its Subsidiaries delivered pursuant to Section 6.01(c) were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair in light of the conditions existing at the time of delivery of such forecasts.

**5.06 Litigation.** There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Company after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Company, each Borrower, or any of their Restricted Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) except as specifically disclosed in Schedule 5.06, as of the Closing Date, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

**5.07 No Default.** Neither the Company nor any Subsidiary is in default under or with respect to any Contractual Obligation that could, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

**5.08 Ownership of Property; Liens.** Each of the Company and each Subsidiary has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The property of the Company and its Subsidiaries is subject to no Liens, other than Liens permitted by Section 7.01.

**5.09 Environmental Compliance.** The Company and its Subsidiaries conduct, in the ordinary course of business, a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties. Each of the Company and each Subsidiary is in compliance with all Environmental Laws except where the failure to do so would reasonably be expected to result in a Material Adverse Effect.

**5.10 Insurance.** The properties of the Company and its domestic Subsidiaries are insured with financially sound and reputable insurance companies, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Company or the applicable Subsidiary operates. The properties of the Subsidiaries of the Company located in jurisdictions located outside the United States are insured by reputable insurance companies, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the applicable Subsidiary operates and which insurance companies are financially sound as of the date of issuance or renewal of each such policy.

**5.11 Taxes.** The Company and its Subsidiaries have filed all material Federal, state and other tax returns and reports required to be filed, and have paid all material Federal, state and other taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP and except for such failures which would not reasonably be expected to result in liabilities or exposure in excess of \$15,000,000. There is no proposed tax assessment against the Company or any Subsidiary that would, if made, have a Material Adverse Effect. Neither any Borrower nor any Subsidiary thereof is party to any tax sharing agreement.

#### **5.12 ERISA Compliance.**

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state laws, except with respect to any non-compliance that reasonably could be expected to result in liability in excess of \$1,500,000. Each Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter from the IRS or is subject to a favorable opinion or advisory letter to the effect that the form of such Plan is qualified under Section 401(a) of the Code. To the best knowledge of the Company, nothing has occurred that would prevent or cause the loss of such tax-qualified status. Except where the failure to do so would not reasonably be expected to result in liability in excess of \$1,500,000, the Company and each ERISA Affiliate have made all required contributions to each Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

(b) There are no pending or, to the best knowledge of the Company, threatened claims, actions or lawsuits (other than routine benefit claims), or action by any Governmental Authority, with respect to any Plan that would reasonably be expected to have a Material Adverse Effect. There has been Prohibited Transaction with respect to any Plan that has resulted or would reasonably be expected to result in a Material Adverse Effect.

(c) Except where any of the following would not reasonably be expected to result in liability in excess of \$1,500,000 (i) No ERISA Event has occurred, and neither the Company nor any ERISA Affiliate is aware of any fact, event or circumstance that would reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan; (ii) the Company and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained; (iii) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is 60% or higher and neither the Company nor any ERISA Affiliate knows of any facts or circumstances that would reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; (iv) neither the Company nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (v) neither the Company nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (vi) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that would reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

(d) Neither the Company or any ERISA Affiliate maintains or contributes to, or has any unsatisfied obligation to contribute to, or liability under, any active or terminated Pension Plan other than (A) on the Closing Date, those listed on Schedule 5.12(d) hereto and (B) thereafter, Pension Plans not otherwise prohibited by this Agreement.

**5.13 Subsidiaries; Equity Interests.** As of the Closing Date the Company has no Subsidiaries other than those specifically disclosed in Part (a) of Schedule 5.13, which Schedule 5.13 shall be supplemented by relevant disclosures in the Compliance Certificates delivered hereunder from time to time, and all of the outstanding Equity Interests in such Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by a Borrower in the amounts specified on Part (a) of Schedule 5.13 free and clear of all Liens. As of the Closing Date, the Company has no equity investments in any other corporation or entity other than those specifically disclosed in Part (b) of Schedule 5.13. All of the outstanding Equity Interests in the Company have been validly issued, and are fully paid and nonassessable.

#### **5.14 Margin Regulations; Investment Company Act.**

(a) No Borrower is engaged or will engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock.

(b) None of the Company, any Person Controlling the Company, or any Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940.

**5.15 Disclosure.** The Company has disclosed to the Administrative Agent and the Lenders (which disclosure may include filings on EDGAR) all agreements, instruments and corporate or other restrictions to which it or any of its Subsidiaries is subject, and all other matters known to it, that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect. No report, financial statement, certificate or other information furnished by or on behalf of any Borrower to the Administrative Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other information so furnished) contains any material misstatement of material fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Company represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

**5.16 Compliance with Laws.** Each of the Company and each Subsidiary other than any Subsidiary organized under Dutch law (a “Dutch Subsidiary”) and as to each Dutch Subsidiary, assuming each of the Lenders is a Professional Market Party, is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings

diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

**5.17 Taxpayer Identification Number; Other Identifying Information.** The true and correct U.S. taxpayer identification number of the Company and each Designated Borrower that is a Domestic Subsidiary and a party hereto on the Closing Date is set forth on Schedule 10.02. The true and correct unique identification number of each Designated Borrower that is a Foreign Subsidiary and a party hereto on the Closing Date that has been issued by its jurisdiction of organization and the name of such jurisdiction are set forth on Schedule 5.17.

**5.18 Intellectual Property; Licenses, Etc.** The Company and its Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, “IP Rights”) that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person, except where such failure to own or possess or such infringement would not reasonably be expected to have a Material Adverse Effect. To the best knowledge of the Company, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Company or any Subsidiary infringes upon any rights held by any other Person, except where the failure to own or possess such IP rights or where such conflict would not reasonably be expected to have a Material Adverse Effect. Except as specifically disclosed in Schedule 5.18, no claim or litigation regarding any of the foregoing is pending or, to the best knowledge of the Company, threatened, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

**5.19 OFAC.** Neither the Borrower, nor any of its Subsidiaries, or, to the knowledge of the Borrower and its Subsidiaries, any director, officer, employee, agent, affiliate or representative thereof is an individual or entity currently the subject of any Sanctions, nor is the Borrower or any Subsidiary located, organized or resident in a country or territory that is the subject of Sanctions.

**5.20 Representations as to Foreign Obligors.** The Company and each Foreign Obligor represents and warrants to the Administrative Agent and the Lenders that:

- (a) Such Foreign Obligor is subject to civil and commercial Laws with respect to its obligations under this Agreement and the other Loan Documents to which it is a party (collectively as to such Foreign Obligor, the “Applicable Foreign Obligor Documents”), and the execution, delivery and performance by such Foreign Obligor of the Applicable Foreign Obligor Documents constitute and will constitute private and commercial acts and not public or governmental acts. Neither such Foreign Obligor nor any of its property has any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) under the laws of the jurisdiction in which such Foreign Obligor is organized and existing in respect of its obligations under the Applicable Foreign Obligor Documents.
- (b) The Applicable Foreign Obligor Documents are, to the extent that the applicable jurisdiction prescribes legal forms for the same, in proper legal form under the Laws of the jurisdiction in which such Foreign Obligor is organized and existing for the enforcement thereof against such Foreign Obligor under the Laws of such jurisdiction, and to ensure the legality, validity, enforceability, priority or admissibility in evidence of the Applicable Foreign Obligor Documents. It is not necessary to ensure the legality, validity, enforceability, priority or admissibility in evidence of the Applicable Foreign Obligor Documents that the Applicable Foreign Obligor Documents be filed, registered or recorded with, or executed or notarized before, any court or other authority in the jurisdiction in which such Foreign Obligor is organized and existing or that any registration charge or stamp or similar tax be paid on or in respect of the Applicable Foreign Obligor Documents or any other document, except for (i) any such filing, registration, recording, execution or notarization as has been made or is not required to be made until the Applicable Foreign Obligor Document or any other document is sought to be enforced and (ii) any charge or tax as has been timely paid.
- (c) There is no tax, levy, impost, duty, fee, assessment or other governmental charge, or any deduction or withholding, imposed by any Governmental Authority in or of the jurisdiction in which such Foreign Obligor is organized and existing either (i) on or by virtue of the execution or delivery of the Applicable Foreign Obligor Documents or (ii) on any payment to be made by such Foreign Obligor pursuant to the Applicable Foreign Obligor Documents, except as has been disclosed to the Administrative Agent.
- (d) The execution, delivery and performance of the Applicable Foreign Obligor Documents executed by such Foreign Obligor are, under applicable foreign exchange control regulations of the jurisdiction in which such Foreign

Obligor is organized and existing, not subject to any notification or authorization except (i) such as have been made or obtained or (ii) such as cannot be made or obtained until a later date (provided that any notification or authorization described in clause (ii) shall be made or obtained as soon as is reasonably practicable).

## ARTICLE VI. AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Company shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, and 6.03) cause each Restricted Subsidiary to:

**6.01 Financial Statements.** Deliver to the Administrative Agent and each Lender (which delivery may be effected by posting on an electronic platform as designated by the Administrative Agent or filing with the SEC), in form and detail satisfactory to the Administrative Agent and the Required Lenders:

(a) as soon as available, but in any event (i) not later than the date provision thereof is required by the SEC (so long as the Company remains a reporting company under the applicable Securities Laws and (ii) if the Company is no longer such a reporting company, by such dates as would be required if the Company were a reporting company and not an “accelerated filer” within the meaning of Rule 12b-2 of the Securities Exchange Act of 1934, as amended (the “SEC Required Filing Date”), a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, such consolidated statements to be audited and accompanied by (i) a report and opinion of a Registered Public Accounting Firm of nationally recognized standing reasonably acceptable to the Required Lenders (which shall be deemed acceptable if such firm is one of the “Big Four”), which report and opinion shall be prepared in accordance with generally accepted auditing standards and applicable Securities Laws and shall not be subject to any “going concern” or like qualification or exception or any qualification or exception as to the scope of such audit and (ii) an attestation report of such Registered Public Accounting Firm as to the Borrower’s internal controls pursuant to Section 404 of Sarbanes-Oxley expressing no concern that would result in such firm’s inability to issue a clean and unqualified audit opinion;

(b) as soon as available, but in any event not later than the SEC Required Filing Date for each fiscal quarter (other than the fourth fiscal quarter) of each fiscal year of the Company a consolidated a balance sheet of the Company and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such fiscal quarter and for the portion of the Company’s fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, such consolidated statements to be certified by a Responsible Officer of the Company as fairly presenting the financial condition, results of operations, shareholders’ equity and cash flows of the Company and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; and

(c) as soon as available, but in any event no later than seventy-five (75) days after the end of each fiscal year of the Company, forecasts prepared by management of the Company, in form reasonably satisfactory to the Administrative Agent, of consolidated balance sheets and statements of income or operations and cash flows of the Company and its Subsidiaries on a quarterly basis for the immediately following fiscal year (including the fiscal year in which the Maturity Date occurs).

As to any information contained in materials furnished pursuant to Section 6.02(b), the Company shall not be separately required to furnish such information under clause (a) or (b) above, but the foregoing shall not be in derogation of the obligation of the Company to furnish the information and materials described in clauses (a) and (b) above at the times specified therein.

**6.02 Certificates; Other Information.** Deliver to the Administrative Agent and each Lender (which delivery may be effected by posting on an electronic platform as designated by the Administrative Agent or filing with the SEC), in form and detail reasonably satisfactory to the Administrative Agent and the Required Lenders:

(a) concurrently with the delivery of the financial statements referred to in Section 6.01(a), a certificate of its independent certified public accountants certifying such financial statements and stating that, in the course of its regular audit of the financial statements of the Company and its Subsidiaries, which audit was conducted in

accordance with generally accepted auditing standards, but without independent investigation, such accounting firm obtained no knowledge that any Default insofar as it relates to financial or accounting matters has occurred or, if in the opinion of such accounting firm such a Default has occurred, specifying the nature and extent thereof;

(b) concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b), a duly completed Compliance Certificate signed by a Responsible Officer of the Company;

(c) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of the Company, and copies of all annual, regular, periodic and special reports and registration statements which the Company may file or be required to file with the SEC including without limitation (i) under Section 13 or 15(d) of the Securities Exchange Act of 1934, and (ii) with respect to any Internal Control Event required to be so disclosed, in each case, not otherwise required to be delivered to the Administrative Agent pursuant to this Agreement;

(d) promptly after the furnishing thereof, copies of any statement (other than administrative notices) or report furnished to any holder of debt securities of any Borrower or any Subsidiary, the aggregate principal amount outstanding of which is not less than the Threshold Amount, pursuant to the terms of any indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Lenders pursuant to Section 6.01 or any other clause of this Section 6.02;

(e) promptly, and in any event within five Business Days after receipt thereof by any Borrower or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other similar inquiry (other than routine communications regarding the Company's filings with the SEC or such agency) by such agency regarding financial or other operational results of any Borrower or any Subsidiary thereof; and

(f) promptly, such additional information regarding the business, financial or corporate affairs of the Company or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request.

Documents required to be delivered pursuant to Sections 6.01 or 6.02 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Company posts such documents, or provides a link thereto on the Company's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Company's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) the Company shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Company to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (ii) the Company shall notify the Administrative Agent (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Company with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Each Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers may, but shall not be obligated to, make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of such Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on DebtDomain, IntraLinks, Syndtrak or another similar electronic system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to any of the Borrowers or their respective Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. Each Borrower hereby agrees that so long as such Borrower is the issuer of any outstanding debt or equity securities that are registered or issued pursuant to a private offering or is actively contemplating issuing any such securities (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrowers shall be deemed to have authorized the Administrative Agent, the Arrangers, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Borrowers or their



respective securities for purposes of United States Federal and state securities laws ( provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Side Information;” and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public Side Information.” Notwithstanding the foregoing, no Borrower shall be under any obligation to mark any Borrower Materials “PUBLIC.”

**6.03 Notices.** Deliver to the Administrative Agent and each Lender (which delivery may be effected by posting on an electronic platform as designated by the Administrative Agent or filing with the SEC):

- (a) of the occurrence of any Default;
- (b) of any matter that, individually or in the aggregate, has resulted or would reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of the Company or any Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between the Company or any Subsidiary and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting the Company or any Subsidiary, including pursuant to any applicable Environmental Laws, in each case for clauses (i) through (iii) above, individually or collectively, that has resulted or would reasonably be expected to result in a Material Adverse Effect;
- (c) of the occurrence of any ERISA Event in connection with which liability would reasonably be expected to exceed \$1,500,000;
- (d) of any material change in accounting policies or financial reporting practices by the Company or any Subsidiary, including any determination by the Company referred to in Section 2.10(b); or
- (e) of the occurrence of any Internal Control Event.

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of the Company setting forth details of the occurrence referred to therein and stating what action the Company has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

**6.04 Payment of Obligations.** Pay and discharge as the same shall become due and payable, all its material obligations and liabilities, including (a) all material tax liabilities, assessments and governmental charges or levies upon it or its properties or assets unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Company or such Subsidiary; (b) all material lawful claims which, if unpaid, would by law become a Lien upon its property other than Permitted Liens; and (c) all material Indebtedness but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness.

**6.05 Preservation of Existence, Etc.** (a) Preserve, renew and maintain in full force and effect its legal existence and good standing (to the extent such concept is relevant under the Laws of the applicable jurisdiction of incorporation or organization) under the Laws of the jurisdiction of its organization except in a transaction permitted by Section 7.04 or 7.05; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which would reasonably be expected to have a Material Adverse Effect.

**6.06 Maintenance of Properties.** (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so would not reasonably be expected to have a Material Adverse Effect; and (c) use the standard of care typical in the relevant industries and countries in the operation and maintenance of its facilities.

**6.07 Maintenance of Insurance.** (a) With respect to the Company and its domestic Subsidiaries, maintain with insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts and with such deductibles as are customarily carried under similar circumstances by such other Persons; and (b) with

respect to Subsidiaries of the Company located in jurisdictions located outside the United States, maintain with reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business with similar value in such jurisdictions, of such types and in such amounts and with such deductibles as are customarily carried under similar circumstances by such other Persons in such jurisdictions and which insurance companies are financially sound as of the date of issuance or renewal of each such policy.

**6.08 Compliance with Laws.** Comply in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted; or (b) the failure to comply therewith would not reasonably be expected to have a Material Adverse Effect.

**6.09 Books and Records.** (a) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Company or such Subsidiary, as the case may be; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Company or such Subsidiary, as the case may be.

**6.10 Inspection Rights.** Permit (i) representatives and independent contractors of the Administrative Agent (together with any Lender accompanying the representatives or independent contractors of the Administrative Agent) and (ii) each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors and officers, and independent public accountants, (y) up to one such visit per fiscal year made by the Administrative Agent shall be at the expense of the Company and at such reasonable times during normal business hours and as often as may be reasonably desired, upon at least three (3) Business Days' advance notice to the Company and (z) all such visits by any Lender shall be upon terms reasonably determined by such Lender and the Company; provided, however, that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Company at any time during normal business hours and without advance notice.

**6.11 Use of Proceeds.** Use the proceeds of the Credit Extensions for (i) capital expenditures, (ii) Permitted Acquisitions, (iii) the repayment of existing indebtedness, including indebtedness under the Existing Credit Agreement, (iv) working capital; and (v) general corporate purposes not in contravention of any Law or of any Loan Document.

**6.12 Approvals and Authorizations.** Maintain all authorizations, consents, approvals and licenses from, exemptions of, and filings and registrations with, each Governmental Authority of the jurisdiction in which each Foreign Obligor is organized and existing, and all approvals and consents of each other Person in such jurisdiction, in each case that are required in connection with the Loan Documents; provided that neither the Company nor any Subsidiary shall be responsible for maintaining any Lenders' qualification in any jurisdiction, or any other authorizations, consents, approval and licenses, exemptions, and filings and registrations, that may be required of any Lender to extend credit in the relevant jurisdiction.

## **ARTICLE VII. NEGATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Company shall not, nor shall it permit any Restricted Subsidiary to, directly or indirectly:

**7.01 Liens.** Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

- (a) Liens pursuant to any Loan Document;
- (b) Liens existing on the date hereof and listed on Schedule 7.01 and any renewals or extensions thereof, provided that (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not

increased, (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.03(b);

- (c) Liens for taxes not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;
- (d) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves under GAAP with respect thereto are maintained on the books of the applicable Person;
- (e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;
- (f) deposits to secure the performance of bids, trade contracts, liability to insurance carriers and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance bonds, contractual or warranty obligations and other obligations of a like nature incurred in the ordinary course of business;
- (g) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;
- (h) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h) (or securing appeal or similar bonds in connection herewith);
- (i) Usual and customary rights of set off on deposit accounts in favor of depository institutions, including any right of set-off or other security arising under the general terms and conditions (*algemene bankvoorwaarden*) in respect of bank accounts held by a Borrower in the Netherlands;
- (j) Liens securing Indebtedness permitted under Sections 7.03(e) and (g); provided that (i) such Liens do not at any time encumber any property other than the property financed by such indebtedness and proceeds thereof and (ii) the Indebtedness secured thereby does not exceed the cost of the property being acquired on the date of acquisition;
- (k) Liens securing Indebtedness permitted under Section 7.03(j); and
- (l) Liens not otherwise permitted by the foregoing clauses of this Section 7.01 securing outstanding obligations in an aggregate principal amount (including unmatured obligations) not to exceed the greater of (i) \$25,000,000 and (ii) 5% of Consolidated Net Tangible Assets.

**7.02 Investments.** Make any Investments, except:

- (a) Investments held by the Company or such Subsidiary in the form of cash equivalents or short-term marketable debt securities;
- (b) advances to officers, directors and employees of the Company and Subsidiaries for travel, entertainment, relocation and analogous ordinary business purposes listed on Schedule 7.02(b) and any other advances to officers, directors and employees of the Company and its Subsidiaries for such purposes in an aggregate amount (excluding the advances listed on Schedule 7.02(b)) not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) at any time outstanding;
- (c) Investments of the Company in any wholly-owned Subsidiary other than Unrestricted Subsidiaries and Investments of any wholly-owned Subsidiary in the Company or in another wholly-owned Subsidiary other than Unrestricted Subsidiaries;
- (d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;
- (e) Permitted Acquisitions;

- (f) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of suppliers and customers and in good faith settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business;
- (g) Investments arising out of Indebtedness permitted under Section 7.03(c), (d), (f), (g), (h), and (j);
- (h) Investments made after the Closing Date in any Person in which the Company or the Restricted Subsidiaries owns an equity interest, but which Person is not a wholly-owned Subsidiary of the Company or its Restricted Subsidiaries, the amount of which at any time outstanding shall not exceed the greater of (i) \$50,000,000 and (ii) 10% of Consolidated Net Tangible Assets, in each case, less Investments outstanding under Section 7.02(j); and
- (i) Investments by Unrestricted Subsidiaries in other Unrestricted Subsidiaries; and
- (j) Investments not otherwise permitted by the foregoing clauses of this Section 7.02, the net amount of which at any time outstanding shall not exceed \$25,000,000

**7.03 Indebtedness.** Create, incur, assume or suffer to exist any Indebtedness, except:

- (a) Indebtedness under the Loan Documents;
- (b) Indebtedness outstanding on the date hereof and listed on Schedule 7.03 and any refinancings, refundings, renewals or extensions thereof; provided that (i) the principal amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder and (ii) the terms relating to principal amount, amortization, maturity, collateral (if any) and subordination (if any), and other material terms taken as a whole, of any such refinancing, refunding, renewing or extending Indebtedness, and of any agreement entered into and of any instrument issued in connection therewith, are no less favorable in any material respect to the Borrowers or the Lenders than the terms of any agreement or instrument governing the Indebtedness being refinanced, refunded, renewed or extended except as may reflect then current market conditions as approved by the Administrative Agent and the interest rate applicable to any such refinancing, refunding, renewing or extending Indebtedness does not exceed the then applicable market interest rate;
- (c) intercompany Indebtedness between Restricted Subsidiaries that are Domestic Subsidiaries;
- (d) other intercompany Indebtedness owing by non-Borrower Restricted Subsidiaries to any Borrower, in an aggregate amount outstanding not to exceed at any time \$25,000,000;
- (e) Indebtedness in respect of capital leases, Synthetic Lease Obligations, and purchase money obligations for fixed or capital assets in an aggregate amount not to exceed \$50,000,000 at any time outstanding;
- (f) intercompany Indebtedness owing by a Borrower to a Restricted Subsidiary subordinated to the Obligations on subordination terms reasonably acceptable to the Administrative Agent;
- (g) assumed Indebtedness and acquisition Indebtedness incurred in connection with Permitted Acquisitions (whether or not such Indebtedness relates to a capital asset);
- (h) obligations (contingent or otherwise) of the Company or any Subsidiary existing or arising under any Swap Contract, provided that such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for purposes of speculation or taking a “market view;”
- (i) unsecured Indebtedness of the Borrowers, provided that, (x) no more than Fifty Million Dollars (\$50,000,000) in the aggregate of additional Indebtedness may have a maturity date on or before the Maturity Date; (y) the balance of such Indebtedness (A) shall have a maturity date later than the Maturity Date and (B) is otherwise on terms reasonably acceptable to the Administrative Agent; and (z) the Borrowers are in pro forma compliance with the financial covenants contained in Section 7.11 after taking into account the incurrence of any such Indebtedness;
- (j) intercompany Indebtedness between and among Unrestricted Subsidiaries;

(k) additional Indebtedness of Subsidiaries in an aggregate principal amount not to exceed Twenty Five Million Dollars (\$25,000,000) at any time outstanding; and

(l) additional Indebtedness owing to Unrestricted Subsidiaries from the Borrowers in an aggregate principal amount not to exceed at any time \$5,000,000;

provided, that no Default or Event of Default shall have occurred or be continuing prior to or immediately after the incurrence or assumption of any Indebtedness in accordance with Sections 7.03(d) through (k) above.

**7.04 Fundamental Changes.** Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Default exists or would result therefrom:

(a) any Restricted Subsidiary may merge with the Company, any Borrower, or any other Restricted Subsidiary, provided that if the Company is party thereto, it shall be the continuing or surviving Person and if the Company is not party thereto but a Borrower is party thereto, any such Borrower shall be the continuing or surviving Person, and provided further that when any wholly-owned Restricted Subsidiary is merging with another Restricted Subsidiary, the wholly-owned Restricted Subsidiary shall be the continuing or surviving Person;

(b) any Borrower may Dispose (upon voluntary liquidated or otherwise) of all or substantially all of its assets to any other Borrower;

(c) any Restricted Subsidiary that is not a Borrower may dispose of all or substantially all of its assets to the Company or another Restricted Subsidiary;

(d) any Subsidiary that has assets not in excess of \$500,000 may be dissolved or liquidated; and

(e) any Unrestricted Subsidiary may merge or consolidate with an Unrestricted Subsidiary or may transfer assets to another Unrestricted Subsidiary; and

(f) Borrower or any Subsidiary other than a Borrower may merge in connection with a Permitted Acquisition or a Disposition permitted pursuant to Section 7.05, provided that (i) in the case of a Permitted Acquisition, such Borrower or such Subsidiary (or a replacement Subsidiary in a reverse triangular merger), as the case may be, is the surviving entity; (ii) no Borrower or Restricted Subsidiary may merge with or into an Unrestricted Subsidiary; and (iii) no Default exists before or after or is created by such Permitted Acquisition or Disposition.

#### **7.05 Dispositions.**

Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired;

(b) Dispositions of inventory and equipment in the ordinary course of business;

(c) Dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(d) Dispositions between or among Borrowers;

(e) Dispositions between or among non-Borrower Restricted Subsidiaries and between or among Unrestricted Subsidiaries;

(f) Dispositions of property by any non-Borrower Subsidiary to any Borrower and Dispositions of property by any Borrower to any Restricted Subsidiary, so long as, in each case, such Disposition complies with the requirements of Section 7.08 (Transactions with Affiliates);

(g) Dispositions permitted by Section 7.04 (Fundamental Changes);

(h) Dispositions by the Company and its Subsidiaries of property pursuant to sale-leaseback transactions, provided that the book value of all property so Disposed of shall not exceed \$25,000,000 from and after the Closing Date;

(i) Dispositions in the nature of exclusive licenses of IP Rights not material (determined as of the date of the applicable license) to the business of the Borrowers and the Restricted Subsidiaries;

- (j) Dispositions by the Company and its Subsidiaries of accounts receivable arising in the ordinary course of business which are overdue or payable by a distressed company in connection with the compromise or collection thereof;
- (k) Dispositions of bankruptcy claims of customers of the Company or any Subsidiary;
- (l) Dispositions of property acquired by the Company or any Subsidiary in a Permitted Acquisition not in excess of \$10,000,000 in the aggregate other than property used solely in connection with Unrelated Lines of Business, for which there shall be no limit; provided that after giving effect to such Permitted Acquisition and such related Disposition, the Company or Subsidiary is in compliance with Section 7.07 (Change in Nature of Business);
- (m) Dispositions by Borrowers and their Subsidiaries not otherwise permitted under this Section 7.05; provided that (i) at the time of such Disposition, no Default shall exist or would result from such Disposition and (ii) the aggregate book value of all property Disposed of in reliance on this clause (m) in any fiscal year shall not exceed 5% of Consolidated Net Tangible Assets, measured as of the end of the preceding fiscal year, in any fiscal year of the Company; and
- (n) Dispositions in the ordinary course of business by the Company and its Subsidiaries of accounts and notes receivable or bankers' acceptances relating thereto for accounts generated from customers located in China and other jurisdictions in the Pacific Rim region, which dispositions may be made at a discount not to exceed ten percent (10%) of the original face amount of any such account, note receivable to bankers' acceptance.

**7.06 Restricted Payments.** Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, at any time when a Default shall have occurred and be continuing or would result therefrom; provided that notwithstanding the foregoing, any non-Borrower may make any such Restricted Payment to a Borrower at any time a Borrower may make a Restricted Payment to a Borrower at any time.

**7.07 Change in Nature of Business.** Other than as disclosed on Schedule 7.07, engage in any material Unrelated Line of Business.

**7.08 Transactions with Affiliates.** Enter into any transaction of any kind with any Affiliate of the Company, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the Company or such Subsidiary as would be obtainable by the Company or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate, provided that with respect to transactions between or among the Borrowers and any non-Borrowers Subsidiaries, such terms shall be no less favorable to the Borrowers than a comparable arm's length transaction, and provided further that the foregoing restrictions shall not apply to the following: (i) transactions among Borrowers which are jointly and severally liable hereunder; (ii) transactions among other Restricted Subsidiaries; and (iii) transactions among Unrestricted Subsidiaries.

**7.09 Burdensome Agreements.** Enter into any Contractual Obligation (other than this Agreement or any other Loan Document) that limits the ability (i) of any Subsidiary to make Restricted Payments to the Company or to otherwise transfer property to the Company, (ii) of any Borrower, Restricted Subsidiary or other wholly-owned Domestic Subsidiary to Guarantee the Indebtedness of the Company or (iii) of the Company or any Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person; provided, however, that this clause (iii) shall not prohibit (a) any negative pledge incurred or provided in favor of any holder of Indebtedness permitted under Section 7.03(b), (e) or (g) solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness and any joint venture agreement to the extent it prohibits the pledge of the equity of or assets held by such joint venture or to the extent it provides conditions to the making of distributions by such joint venture, (b) any provision, which requires the grant of a Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person, (c) customary anti-assignment provisions in Contractual Obligations or (d) prohibitions on assignment of joint venture interests, nor shall it apply to restrictions in credit facilities of Unrestricted Subsidiaries.

**7.10 Use of Proceeds.** Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose in violation of Regulation U of the FRB.

### 7.11 Financial Covenants.

- (a) **Consolidated Interest Coverage Ratio.** Permit the Consolidated Interest Coverage Ratio as of the end of any fiscal quarter of the Company to be less than 2.50 to 1.00.
- (b) **Consolidated Leverage Ratio.** Permit the Consolidated Leverage Ratio as of the end of any fiscal quarter of the Company to exceed 3.50 to 1.00.

### 7.12 Unrestricted Subsidiaries.

The Company and its Restricted Subsidiaries may not make any loans to, or transact any other business with, an Unrestricted Subsidiary on terms that are not as favorable to the Company and its Restricted Subsidiaries as would be obtainable in a comparable arm's length transaction. The Company may, from time to time, request that a Restricted Subsidiary be designated as an Unrestricted Subsidiary with the written consent of the Required Lenders, which consent may be conditioned on such terms and requirements as the Required Lenders deem appropriate.

### 7.13 Sanctions.

Directly or indirectly, use the proceeds of any Credit Extension, or lend, contribute or such proceeds to any Subsidiary, joint venture partner or other individual or entity, to fund any activities of or business with any individual, or entity, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any individual or entity participating in the transaction, whether as Lender, Arranger, Administrative Agent, L/C Issuer, Swing Line Lender or otherwise) of Sanctions.

## ARTICLE VIII. EVENTS OF DEFAULT AND REMEDIES

### 8.01 Events of Default.

Any of the following shall constitute an Event of Default:

- (a) **Non-Payment.** The Company or any other Borrower fails to pay (i) when and as required to be paid herein, and in the currency required hereunder, any amount of principal of any Loan or any L/C Obligation, or (ii) within three Business Days after the same becomes due, any interest on any Loan or on any L/C Obligation, or any fee due hereunder, or (iii) within five Business Days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or
- (b) **Specific Covenants.** Any of the specified Persons fails to perform or observe any term, covenant or agreement contained in any of:
- (i) as to the Borrowers and Restricted Subsidiaries, as applicable: Sections 6.01(a) or (b), 6.02 (a) or (b), 6.03(a) or (b), 6.05(a), 6.10, 6.11 or Article VII; or
  - (ii) as to the Borrowers and Restricted Subsidiaries, as applicable: Sections 6.01(c), 6.02 (c) through (f), 6.03(c) through (e) or 6.05(b) and (c) which failure continues for ten (10) days after the occurrence of the relevant event with respect to such Borrower or Restricted Subsidiary; or
  - (iii) as to any non-Borrower Subsidiary: Sections 6.02 (c) through (f), 6.03 (c) through (e) or 6.05, which failure continues for ten (10) days after the occurrence of the relevant event with respect to such non-Borrower Subsidiary; or
- (c) **Other Defaults.** Any Borrower fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues beyond any applicable grace period set forth therein; or if none is specified, for thirty (30) days; or
- (d) **Representations and Warranties.** Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Company or any other Borrower herein in any other Loan Document or in any document delivered in connection herewith or therewith, shall be incorrect or misleading in any material respect when made or deemed made; or
- (e) **Cross-Default.** (i) The Company, any Borrower or any Restricted Subsidiary (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guarantee (other than Indebtedness hereunder) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount, or



(B) fails to observe or perform any other agreement or condition relating to any Indebtedness or Guarantee (other than Indebtedness hereunder having an aggregate principal amount (including undrawn committed or available amounts and including amounts

owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs (other than the sale of assets, accumulation of excess cash flow, issuance of debt or equity or similar event which does not constitute a default but which triggers a mandatory prepayment or right to redeem otherwise permitted hereunder), the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded (but excluding pursuant to due-on-sale clauses); or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Company or any Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which the Company or any Subsidiary is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by the Company or such Subsidiary as a result thereof is greater than the Threshold Amount; or

(f) Insolvency Proceedings, Etc. Any Borrower or any of its Restricted Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismitted or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) The Company or any Restricted Subsidiary becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) Judgments. There is entered against the Company or any Restricted Subsidiary (i) a final non-appealable judgment or order for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage (it being understood that a reservation of rights letter which does not include a dispute of coverage, a denial of a claim or anything more shall not be deemed to be disputed coverage), or (ii) any one or more non-monetary final judgments that have, or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) any applicable statutory period during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect under the laws of the applicable jurisdiction; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or would reasonably be expected to result in liability of the Company under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount, or (ii) the Company or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of the Threshold Amount; or

(j) Invalidity of Loan Documents. Any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Borrower or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or any Borrower denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document; or

(k) Change of Control. There occurs any Change of Control.

**8.02 Remedies Upon Event of Default.** If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

- (a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;
- (b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document (it being understood that obligations under any Swap Contract shall nonetheless continue to be governed by the terms of such Swap Contracts) to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrowers;
- (c) require that the Company Cash Collateralize the L/C Obligations (in an amount equal to the Minimum Collateral Amount with respect thereto);
- (d) exercise on behalf of itself, the Lenders and the L/C Issuer all rights and remedies available to it, the Lenders and the L/C Issuer under the Loan Documents;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to any Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Company to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

**8.03 Application of Funds.** After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.16 and 2.17, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuer (including fees and time charges for attorneys who may be employees of any Lender or the L/C Issuer) and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the Company pursuant to Sections 2.03 and 2.16; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Company or as otherwise required by Law.

Subject to Sections 2.03(c) and 2.16, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

## **ARTICLE IX. ADMINISTRATIVE AGENT**

### **9.01 Appointment and Authority.**

Each of the Lenders and the L/C Issuer hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the L/C Issuer, and neither the Company nor any other Borrower shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

**9.02 Rights as a Lender.** The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrowers or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

**9.03 Exculpatory Provisions.** The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

- (a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;
- (b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and
- (c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any of the Borrowers or any of their respective Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Company, a Lender or the L/C Issuer.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness



of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

#### **9.04 Reliance by Administrative Agent.**

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Company), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

**9.05 Delegation of Duties.** The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

**9.06 Resignation of Administrative Agent.** (a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuer and the Company. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Company, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "Resignation Effective Date"), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the L/C Issuer, appoint a successor Administrative Agent meeting the qualifications set forth above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Company and such Person remove such Person as Administrative Agent and, in consultation with the Company, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the L/C Issuer directly, until such time, if any,

as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Administrative Agent (other than as provided in Section 3.01(g) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Company to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Company and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent.

(d) Any resignation by Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as L/C Issuer and Swing Line Lender. If Bank of America resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto, including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment by the Company of a successor L/C Issuer or Swing Line Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as applicable, (b) the retiring L/C Issuer and Swing Line Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

**9.07 Non-Reliance on Administrative Agent and Other Lenders.** Each Lender and the L/C Issuer acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

**9.08 No Other Duties, Etc.** Anything herein to the contrary notwithstanding, none of the Bookrunners, Arrangers, Syndication Agent or Documentation Agent or listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or the L/C Issuer hereunder.

**9.09 Administrative Agent May File Proofs of Claim.** In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Borrower, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on any Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuer and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer and the Administrative Agent under Sections 2.03(h) and (i), 2.09 and 10.04) allowed in such judicial proceeding; and

- (b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the L/C Issuer to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuer, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or the L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or the L/C Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or the L/C Issuer in any such proceeding.

## **ARTICLE X. MISCELLANEOUS**

**10.01 Amendments, Etc.** Subject to any agreement to the contrary pursuant to the terms and conditions of Section 2.15, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Company or any other Borrower therefrom, shall be effective unless in writing signed by the Required Lenders and the Company or the applicable Borrower, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

- (a) waive any condition set forth in Section 4.01(a) without the written consent of each Lender;
- (b) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;
- (c) postpone any date fixed by this Agreement or any other Loan Document for any scheduled payment of principal, interest or fees due to any Lender hereunder or under any other Loan Document without the written consent of such Lender;
- (d) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iv) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document, or change the manner of computation of any financial ratio (including any change in any applicable defined term) used in determining the Applicable Rate that, at the time of the relevant amendment, would result in a reduction of any interest rate on any Loan or any fee payable hereunder without the written consent of each Lender directly affected thereby; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of “Default Rate” or to waive any obligation of any Borrower to pay interest or Letter of Credit Fees at the Default Rate;
- (e) change Section 2.13 or Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender;
- (f) add any additional Designated Borrowers without the written consent of each Lender;
- (g) release all or substantially all of the value of the Company’s or any Designated Borrower’s obligations hereunder or under any Loan Document without the written consent of each Lender (it being understood that this section (g) shall not affect the ability of the Company to Dispose of a Designated Borrower in a manner otherwise permitted by this Agreement nor to cause a Designated Borrower to cease to be a Designated Borrower which for the sake of clarity shall require the consent of the Required Lenders);
- (h) amend Section 1.06 or the definition of “Alternative Currency” or add any additional “Alternative Currencies” without the written consent of each Lender; or
- (i) change any provision of this Section or the definition of “Required Lenders” or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder without the written consent of each Lender;



---

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and (iv) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender (it being agreed that any action taken with respect to Sections 10.01(c) or (d) that directly affects a Defaulting Lender shall be deemed to disproportionately affect such Defaulting Lender).

Notwithstanding any provision herein to the contrary, this Agreement may be amended with the written consent of the Required Lenders, the Administrative Agent and the Company (i) to add one or more additional revolving credit or term loan facilities to this Agreement and to permit the extensions of credit and all related obligations and liabilities arising in connection therewith from time to time outstanding to share ratably (or on a basis subordinated to the existing facilities hereunder) in the benefits of this Agreement and the other Loan Documents with the obligations and liabilities from time to time outstanding in respect of the existing facilities hereunder, and (ii) in connection with the foregoing, to permit, as deemed appropriate by the Administrative Agent and approved by the Required Lenders, the Lenders providing such additional credit facilities to participate in any required vote or action required to be approved by the Required Lenders or by any other number, percentage or class of Lenders hereunder.

#### **10.02 Notices; Effectiveness; Electronic Communication.**

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) subject to paragraph (d) below, if to the Borrowers, the Administrative Agent, the L/C Issuer or the Swing Line Lender, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Company).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuer hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or the L/C Issuer pursuant to Article II if such Lender or the L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic

communication. The Administrative Agent, the Swing Line Lender, the L/C Issuer or the Company may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to any Borrower, any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Company's, any other Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party.

(d) Change of Address, Etc. Each of the Borrowers, the Administrative Agent, the L/C Issuer and the Swing Line Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Company, the Administrative Agent, the L/C Issuer and the Swing Line Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Company or its securities for purposes of United States Federal or state securities laws.

(e) Reliance by Administrative Agent, L/C Issuer and Lenders. The Administrative Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic Committed Loan Notices, Letter of Credit Applications and Swing Line Loan Notices) purportedly given by or on behalf of any Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Company shall indemnify the Administrative Agent, the L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of any Borrower, except such losses, costs, expenses and liability resulting from such Person's gross negligence or willful misconduct. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

**10.03 No Waiver; Cumulative Remedies; Enforcement.** No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrowers or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and the L/C Issuer; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) the L/C Issuer or the Swing Line Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer or Swing Line Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.13), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Borrower under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

#### **10.04 Expenses; Indemnity; Damage Waiver.**

(a) Costs and Expenses. The Company shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or the L/C Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit; provided, however, that for the purposes of this clause, the Borrowers shall only be liable for the fees, charges and disbursements of one counsel to all Lenders other than the Administrative Agent and the L/C Issuer per each relevant jurisdiction.

(b) Indemnification by the Company. The Company shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and the L/C Issuer, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Company or any other Borrower) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Borrower or any of its Subsidiaries, or any

Environmental Liability related in any way to any Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Company or any other Borrower, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Company or any other Borrower against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Company or such Borrower has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. Without limiting the provisions of Section 3.01(c), this Section 10.04(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Company for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the L/C Issuer, the Swing Line Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the L/C Issuer, the Swing Line Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), the L/C Issuer or the Swing Line Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), the L/C Issuer or the Swing Line Lender in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, no Borrower shall assert, and hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(f) Survival. The agreements in this Section and the indemnity provisions of Section 10.02(e) shall survive the resignation of the Administrative Agent, the L/C Issuer and the Swing Line Lender, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

**10.05 Payments Set Aside.** To the extent that any payment by or on behalf of any Borrower is made to the Administrative Agent, the L/C Issuer or any Lender, or the Administrative Agent, the L/C Issuer or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, the L/C Issuer or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and the L/C Issuer severally agrees to pay to the Administrative Agent upon demand its applicable share

(without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect, in the applicable currency of such recovery or payment. The obligations of the Lenders and the L/C Issuer under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

#### **10.06 Successors and Assigns.**

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Company nor any other Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (provided that any such assignment or deemed assignment solely as a result of redomestication of a Borrower from one state or jurisdiction of organization within the United States to another state or jurisdiction of organization within the United States shall require consent of the Administrative Agent only) and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this subsection (b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment or contemporaneous assignments to related Approved Funds that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate and the Loans at the time owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Company otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to the Swing Line Lender's rights and obligations in respect of Swing Line Loans;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Company (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund that is also a Professional Market Party; provided that the Company shall be deemed to have

consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within seven Business Days after having received notice thereof; and provided further that the Company's consent shall not be required during the primary syndication of the credit facility provided herein;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

(C) the consent of the L/C Issuer and the consent of the Swing Line Lender (such consents not to be unreasonably withheld or delayed) shall be required for any assignment.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to the Company or any of the Company's Affiliates or Subsidiaries, (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) to a natural Person.

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Company and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, the L/C Issuer or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swing Line Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, each Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrowers (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the

“Register”). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, any Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person, a Defaulting Lender or the Company or any of the Company’s Affiliates or Subsidiaries) (each, a “Participant”) in all or a portion of such Lender’s rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender’s participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers, the Administrative Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 10.04(c) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. The Company agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 10.13 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Company’s request and expense, to use reasonable efforts to cooperate with the Company to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Company, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under the Loan Documents (the “Participant Register”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledge or assignee for such Lender as a party hereto.

(g) Resignation as L/C Issuer or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Commitment and Loans pursuant to subsection (b) above, Bank of America may, (i) upon 30 days’ notice to the Company and the Lenders, resign as L/C



Issuer and/or (ii) upon 30 days' notice to the Company, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, the Company shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder; provided, however, that no failure by the Company to appoint any such successor shall affect the resignation of Bank of America as L/C Issuer or Swing Line Lender, as the case may be. If Bank of America resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Committed Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Committed Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

**10.07 Treatment of Certain Information; Confidentiality.** Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or any Eligible Assignee invited to be a Lender pursuant to Section 2.15(c) or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to any of the Borrowers and their obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating the Company or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the consent of the Company or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, the L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other than the Company. For purposes of this Section, "Information" means all information received from the Company or any Subsidiary relating to the Company or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the L/C Issuer on a nonconfidential basis prior to disclosure by the Company or any Subsidiary, provided that, in the case of information received from the Company or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Lenders and the L/C Issuer acknowledges that (a) the Information may include material non-public information concerning the Company or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.

**10.08 Right of Setoff.** If an Event of Default shall have occurred and be continuing, each Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, to the

fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of the Company or any other Borrower (other than escrow or similar accounts in which third parties have contractual rights) against any and all of the obligations of the Company or such Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or the L/C Issuer or their respective Affiliates, irrespective of whether or not such Lender, L/C Issuer or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Company or such Borrower may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or the L/C Issuer different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.17 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the L/C Issuer and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective Affiliates may have. Each Lender and the L/C Issuer agrees to notify the Company and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

**10.09 Interest Rate Limitation.** Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Company. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

**10.10 Counterparts; Integration; Effectiveness.** This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent or the L/C Issuer, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging means (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement.

**10.11 Survival of Representations and Warranties.** All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

**10.12 Severability.** If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions.

The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, the L/C Issuer or the Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

**10.13 Replacement of Lenders.** If the Company is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting Lender or if any other circumstance exists hereunder that gives the Company the right to replace a Lender as a party hereto, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

- (a) the Company shall have paid (or caused a Designated Borrower to pay) to the Administrative Agent the assignment fee (if any) specified in Section 10.06(b);
- (b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Company or applicable Designated Borrower (in the case of all other amounts);
- (c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;
- (d) such assignment does not conflict with applicable Laws; and
- (e) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Company to require such assignment and delegation cease to apply.

#### **10.14 Governing Law; Jurisdiction; Etc.**

- (a) **GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**
- (b) **SUBMISSION TO JURISDICTION. THE COMPANY AND EACH OTHER BORROWER IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER, THE L/C ISSUER, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK**

STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR THE L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE COMPANY OR ANY OTHER BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE COMPANY AND EACH OTHER BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

**10.15 Waiver of Jury Trial.** EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**10.16 No Advisory or Fiduciary Responsibility.** In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Company and each other Borrowers acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers, the other Lead Arranger and the Lenders are arm's-length commercial transactions between the Company, each other Borrower and their respective Affiliates, on the one hand, and the Administrative Agent, the Arrangers, the other Lead Arranger and the Lenders, on the other hand, (B) each of the Company and the other Borrowers has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Company and each other Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent, the Arrangers, each other Lead Arranger and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Company, any other Borrower or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent, the Arrangers, any other Lead Arranger nor any Lender has any obligation to the Company, any other Borrower or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Arrangers, the other Lead Arranger and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company, the other Borrowers and their respective Affiliates, and neither the Administrative Agent, the Arrangers, any other Lead Arranger, nor any Lender has any obligation to disclose any of such interests to the Company, any other Borrower or any of their respective Affiliates. To the fullest extent permitted by law, each of

the Company and each other Borrower hereby waives and releases any claims that it may have against the Administrative Agent, the Arrangers, the other Lead Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

**10.17 Electronic Execution of Assignments and Certain Other Documents.** The words “execute,” “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

**10.18 USA PATRIOT Act.** Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrowers that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies the Borrowers, which information includes the name and address of each Borrower and other information that will allow such Lender or the Administrative Agent, as applicable, to identify such Borrower in accordance with the Act. Each Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Act.

**10.19 Time of the Essence.** Time is of the essence of the Loan Documents.

**10.20 Judgment Currency.** If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of each Borrower in respect of any such sum due from it to the Administrative Agent or any Lender hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the “Judgment Currency”) other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the “Agreement Currency”), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent or such Lender, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent or any Lender from any Borrower in the Agreement Currency, such Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or such Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent or any Lender in such currency, the Administrative Agent or such Lender, as the case may be, agrees to return the amount of any excess to such Borrower (or to any other Person who may be entitled thereto under applicable law).

**10.01 Amendment and Restatement.**

Upon the effectiveness of this Agreement, the Existing Credit Agreement will be amended and restated and the obligations thereunder will be continued under this Agreement. For the sake of clarity, until such time as the terms and conditions for the effectiveness of the Credit Agreement are met, the Existing Credit Agreement will remain in full force and effect.

*IN WITNESS WHEREOF*, the parties hereto have caused this Amended and Restated Credit Agreement to be duly executed as of the date first above written.

**QUAKER CHEMICAL CORPORATION**

(a Pennsylvania corporation)

By: /s/ Michael F. Barry

Name: Michael F. Barry

Title: CEO and President

By: /s/ Margaret M. Loebel

Name: Margaret M. Loebel

Title: CFO and Treasurer

**QUAKER CHEMICAL CORPORATION**

(a Delaware corporation)

By: /s/ Margaret M. Loebel

Name: Margaret M. Loebel

Title: President

**EPMAR CORPORATION**

By: /s/ Margaret M. Loebel

Name: Margaret M. Loebel

Title: Treasurer and CFO

**QUAKER CHEMICAL B.V.**

By: /s/ Margaret M. Loebel

Name: Margaret Loebel

Title: Authorised Signatory

(Signature Page to Amended and Restated Credit Agreement)

---

**QUAKER CHEMICAL EUROPE B.V.**

By: /s/ Margaret M. Loebel

Name: Margaret Loebel

Title: Authorised Signatory

(Signature Page to Amended and Restated Credit Agreement)

---

**BANK OF AMERICA, N.A.,** as

Administrative Agent

By: /s/ Fani Davidson

Name: Fani Davidson

Title: Vice President

(Signature Page to Amended and Restated Credit Agreement)

---



**BANK OF AMERICA, N.A.**, as a Lender, L/C Issuer and Swing Line Lender

By: /s/ Andrew Richards

Name: Andrew Richards

Title: Senior Vice President

(Signature Page to Amended and Restated Credit Agreement)

---

**CITIZENS BANK OF PENNSYLVANIA, as**

Lender

By: /s/ Leslie D. Broderick

Name: Leslie D. Broderick

Title: Senior Vice President

(Signature Page to Amended and Restated Credit Agreement)

---

**PNC BANK, NATIONAL ASSOCIATION, as**

Lender

By: /s/ Teara A. Campbell

Name: Teara A. Campbell

Title: Assistant Vice President

(Signature Page to Amended and Restated Credit Agreement)

---

**HSBC BANK USA, N.A., as**

Lender

By: /s/ Christopher L. Querns

Name: Christopher L. Querns

Title: Vice President

(Signature Page to Amended and Restated Credit Agreement)

---

**KEYBANK NATIONAL ASSOCIATION, as**

Lender

By: /s/ Brian P. Fox

Name: Brian P. Fox

Title: Vice President

(Signature Page to Amended and Restated Credit Agreement)

---

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

Lender

By: /s/ Carol S. Orellana

Name: Carol S. Orellana

Title: Senior Vice President

(Signature Page to Amended and Restated Credit Agreement)

---

**SOVEREIGN BANK, as**

Lender

By: /s/ Francis D. Phillips

Name: Francis D. Phillips

Title: Senior Vice President

(Signature Page to Amended and Restated Credit Agreement)

---

**JPMORGAN CHASE BANK, N.A., as**

Lender

By: /s/ Anthony Galea

Name: Anthony Galea

Title: Vice President

(Signature Page to Amended and Restated Credit Agreement)

---



**EXISTING LETTERS OF CREDIT**

<b>LC No.</b>	<b>Beneficiary</b>	<b>Amount</b>	<b>Issued</b>	<b>Expiration</b>	<b>Currency</b>
T00000068030206	The Director of Development, Ohio Department of Development	\$1,750,000	10/14/08	10/13/14	USD
T00000068046770	Orange County Flood Control District c/o Orange Public Works/Real Estate Services	\$ 100,000	11/18/09	11/10/13	USD
T00000068048027	Liberty Mutual Insurance Company	\$ 387,462	2/01/10	1/31/14	USD

**COMMITMENTS  
AND APPLICABLE PERCENTAGES**

<b>Lender</b>	<b>Commitment</b>	<b>Applicable Percentage</b>
Bank of America, N.A.	\$ 60,000,000.00	20.0000000000%
Citizens Bank of Pennsylvania	\$ 60,000,000.00	20.0000000000%
PNC Bank, National Association	\$ 50,000,000.00	16.6666666667%
HSBC Bank USA, N.A.	\$ 30,000,000.00	10.0000000000%
Key Bank National Association	\$ 30,000,000.00	10.0000000000%
Wells Fargo Bank, N.A.	\$ 30,000,000.00	10.0000000000%
Sovereign Bank	\$ 25,000,000.00	8.3333333333%
JP Morgan Chase Bank, N.A.	\$ 15,000,000.00	5.0000000000%
<b>Total</b>	<b>\$300,000,000.00</b>	<b>100%</b>

**LITIGATION**

**NONE**

Schedule 5.06

Page 1

---

**PENSION PLANS**

1. Quaker Chemical Corporation Pension Plan. This plan is a cash balance defined benefit pension plan.

Schedule 5.12(d)

Page 1

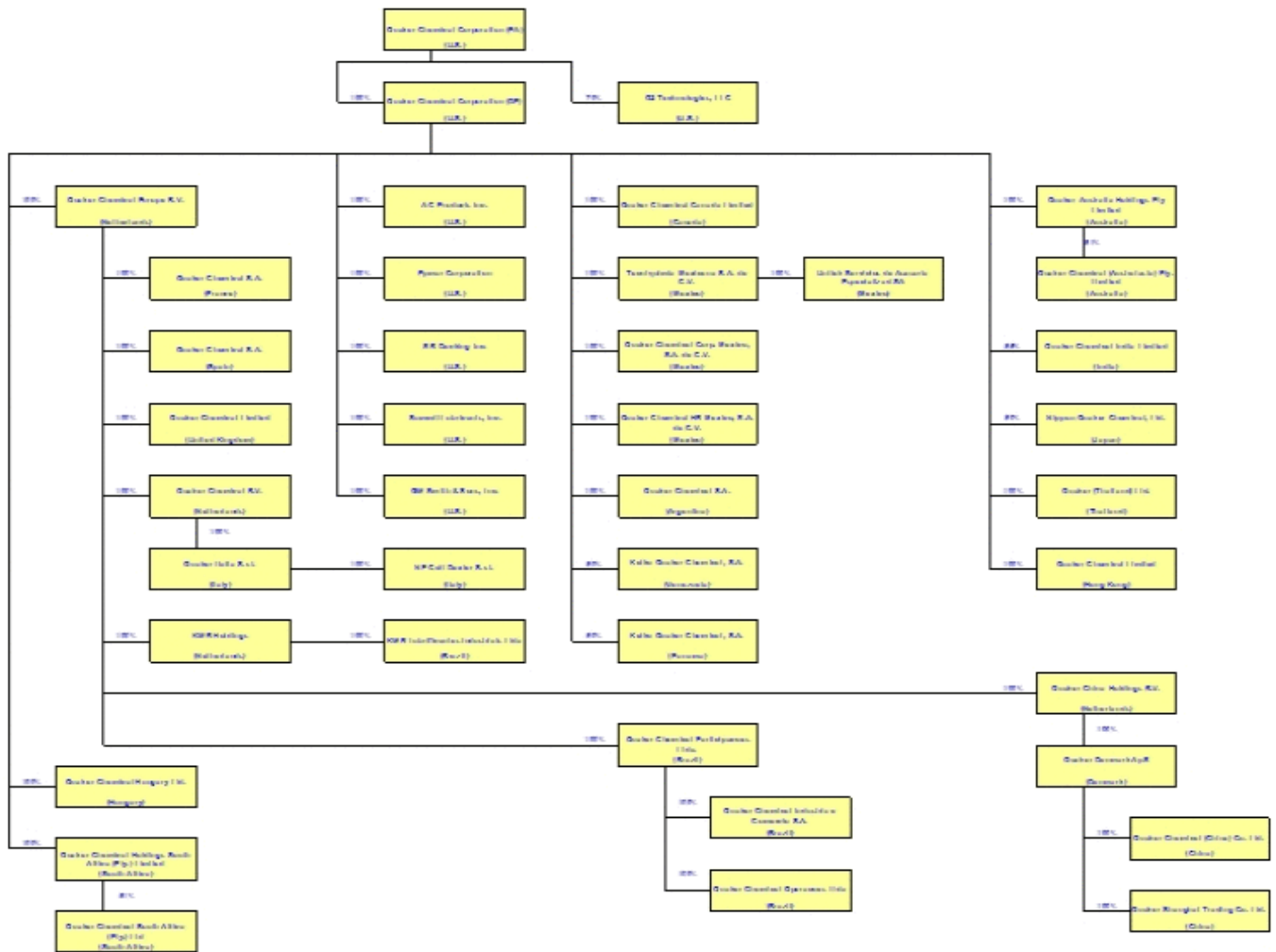
---

**SUBSIDIARIES, AND  
OTHER EQUITY INVESTMENTS**

**Part (a)—Subsidiaries**

Gen-Val, LLC\*  
SL Exports, Ltd.\*

\* These non-operating entities are 100% owned by Summit Lubricants and have no assets or liabilities.



**Part (b)—Other Equity Investments**

Primex, Ltd. – minority equity stake held by Quaker Chemical Corporation (PA)

Schedule 5.13  
Page 3

---

**IDENTIFICATION NUMBERS FOR  
DESIGNATED BORROWERS THAT ARE FOREIGN SUBSIDIARIES**

---

<b>Designated Borrower</b>	<b>Identification Number</b>	<b>Jurisdiction of Organization</b>
Quaker Chemical Europe BV	133226579	Netherlands
Quaker Chemical BV	33109151	Netherlands

---

Schedule 5.17

Page 1

---



**INTELLECTUAL PROPERTY MATTERS**

**NONE**

Schedule 5.18  
Page 1

---

**EXISTING LIENS**

Filed with Pennsylvania Secretary of State:

<b>Debtor</b>	<b>Agreement</b>	<b>Secured Party</b>	<b>Filing Type Filing Number</b>
Quaker Chemical Corporation (PA)	Financing Agreement by and among Butler County Port Authority and Quaker Chemical Corporation (PA) and Brown Brothers Harriman & Co. dated as of May 15, 2008	Brown Brothers Harriman & Co.	UCC-1 No. 2008051903724
Quaker Chemical Corporation (PA)	Lease #3422005 PNC	Equipment Finance, LLC	UCC-1 No. 2010040701881

**EXISTING INVESTMENTS**

**NONE**

Schedule 7.02(b)

Page 1

---

**EXISTING INDEBTEDNESS**

1. Financing Agreement by and among Butler County Port Authority and Quaker Chemical Corporation (PA) and Brown Brothers Harriman & Co. dated as of May 15, 2008 relating to \$10,000,000 Butler County Port Authority Industrial Development Revenue Bond (Quaker Chemical Corporation Project) Series 2008 (\$10,000,000 maximum principal amount).
2. Financing Agreement by and among Montgomery County Industrial Development Authority and Quaker Chemical Corporation (PA) and Brown Brothers Harriman & Co. dated as of February 1, 2007 relating to \$5,000,000 Montgomery County Industrial Development Authority Industrial Development Revenue Refunding Bond (Quaker Chemical Corporation Project) Series 2007 (\$5,000,000 maximum principal amount).
3. Loan Agreement between the Direct of Development of the State of Ohio and Quaker Chemical Corporation (PA) dated as of October 1, 2008 (\$2,646,000 outstanding as of April 30, 2013).
4. Line of Credit from Artigian Fidi Lombardia in favor of NP Coil Dexter Industries (€1,200,000 maximum).
5. Various capital lease agreements between Quaker Chemical Corporation (PA), Epmar, Brazil and NP Coil Dexter and various lenders.
6. Letter of Credit number 3089481 issued on August 22, 2007 by Bank of America, listing Malloy Family Partners LP as the beneficiary, in the amount of \$150,000 and with an expiration date of August 22, 2014.

**MATERIAL UNRELATED LINES OF BUSINESS**

**NONE**

Schedule 7.07

Page 1

---

**ADMINISTRATIVE AGENT'S OFFICE;  
CERTAIN ADDRESSES FOR NOTICES**

**COMPANY  
and DESIGNATED BORROWERS:**

Quaker Chemical Corporation  
One Quaker Park  
901 Hector Street  
Conshohocken, Pennsylvania 19428-0809  
Attention: Margaret M. Loebl, Vice President,  
Chief Financial Officer & Treasurer  
Attention: George H. Hill, Director of Treasury  
Attention: Robert Traub, Esq., General Counsel and  
Director of Global Corporate Compliance  
Attention: D. Jeffrey Benoliel, Vice President – Global  
Metalworking and Fluid Power and Corporate Secretary

**ADMINISTRATIVE AGENT:**

DAILY OPERATIONS CONTACT:

Name: Todd Clarke  
Telephone: 980-386-4198  
Facsimile #: 704-719-8839  
Email: johnathon.clarke@baml.com

SWINGLINE LENDER CONTACT

Name: Sandi McEachern  
Telephone: 980-386-4198  
Facsimile #: 704-719-8839  
Email: johnathon.clarke@baml.com

LOAN CLOSER CONTACT:

Name: Kathy Mumpower  
Telephone: 980-386-0482  
Facsimile #: 704-409-0070  
Email: Kathy.mumpower@baml.com

Mailing Address

Bank of America  
101 North Tryon Street  
NC1-001-04-39  
Charlotte, NC 28255

**USD PAYMENT INSTRUCTIONS:**

Bank of America  
New York NY  
ABA 026009593  
Acct # 1366212250600  
Acct Name: Corporate Credit Services  
Ref: Quaker Chemical Corporation

**EUR PAYMENT INSTRUCTIONS:**

Bank of America, London  
SWIFT: BOFAGB22  
IBAN #: GB80BOFA16505065280019  
Acct #: 65280019  
Attn Credit Services  
Ref: Quaker Chemical Corporation

**GBP PAYMENT INSTRUCTIONS:**

Bank of America, London  
SWIFT: BOFAGB22  
SORT CODE: 16-50-50  
IBAN GB58 BOFA 1650 5065 2800 27  
Acct #: 65280027  
Attn: Credit Services  
Ref: Quaker Chemical Corporation

**YEN PAYMENT INSTRUCTIONS:**

Bank of America, Tokyo  
SWIFT: BOFAJPJX  
Acct #: 606490661046  
Attn: Credit Services  
Ref: Quaker Chemical Corporation

**CANADIAN DOLLAR PAYMENT INSTRUCTIONS:**

Bank of America, Toronto Canada  
SWIFT: BOFACATT  
Acct #: 711465003220  
Attn: Credit Services  
Ref: Quaker Chemical Corporation

**MXN (only available to the US borrower)**

Bank of America, Mexico City  
Mexico City  
SWIFT: BOFAMXXM  
Account 945995193009  
Attn: Credit Services  
Ref: Quaker Chemical Corporation

Other Notices as Administrative Agent:

Bank of America, N.A.  
Agency Management  
Attention: Fani Davidson  
Street Address: 135 South LaSalle Street 5<sup>th</sup> floor  
Mail Code: IL1-135-05-41  
City, State ZIP Code Chicago, IL 60603  
Telephone: 312-923-0604  
Telecopier: 312-453-4217  
fani.davidson@baml.com

L/C ISSUER:

Bank of America, N.A.  
Trade Operations  
Street Address: 1 Fleet Way  
Mail Code: PA6-580-02-30  
City, State ZIP Code SCRANTON PA 18507  
Attention: Malave, Alfonso  
Telephone: 570-330-4212  
Telecopier: 570-330-4186  
Electronic Mail: alfonso.malave@baml.com

**IDENTIFICATION NUMBERS FOR  
DESIGNATED BORROWERS THAT ARE DOMESTIC SUBSIDIARIES**

---

<b>Designated Borrower</b>	<b>Identification Number</b>	<b>Jurisdiction of Organization</b>
Quaker Chemical Corporation	123-0993790	Pennsylvania
Quaker Chemical Corporation	151-0259028	Delaware
Epmar Corporation	95-3455413	California

---

Schedule 10.02

---



**FORM OF COMMITTED LOAN NOTICE**

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

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Credit Agreement, dated as of June 14, 2013 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Agreement," the terms defined therein being used herein as therein defined), among Quaker Chemical Corporation, a Pennsylvania corporation (the "Company"), the Designated Borrowers from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The Company hereby requests, on behalf of itself or, if applicable, the Designated Borrower referenced in item 6 below (the "Applicable Designated Borrower") (select one):

· A Borrowing of Committed Loans      · A conversion or continuation of  
Loans

- 1. On \_\_\_\_\_ (a Business Day).
- 2. In the amount of \_\_\_\_\_.
- 3. Comprised of \_\_\_\_\_.

[Type of Committed Loan requested]

- 4. In the following currency: \_\_\_\_\_
- 5. For Eurocurrency Rate Loans: with an Interest Period of \_\_\_\_months.
- 6. On behalf of \_\_\_\_\_ [insert name of applicable Designated Borrower].

The Committed Borrowing, if any, requested herein complies with the provisos to the first sentence of Section 2.01 of the Agreement.

**QUAKER CHEMICAL CORPORATION**, a Pennsylvania corporation

By: \_\_\_\_\_

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

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

Form of Committed Loan Notice

---

**FORM OF SWING LINE LOAN NOTICE**

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

To: Bank of America, N.A., as Swing Line Lender  
Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Credit Agreement, dated as of June 14, 2013 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Agreement," the terms defined therein being used herein as therein defined), among Quaker Chemical Corporation, a Pennsylvania corporation (the "Company"), the Designated Borrowers from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The undersigned hereby requests a Swing Line Loan:

1. On \_\_\_\_\_ (a Business Day).
2. In the amount of \$ \_\_\_\_\_ .

The Swing Line Borrowing requested herein complies with the requirements of the provisos to the first sentence of Section 2.04(a) of the Agreement.

**QUAKER CHEMICAL CORPORATION**, a Pennsylvania corporation

By: \_\_\_\_\_

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

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

Form of Swing Line Loan Notice

---

FORM OF NOTE

---

FOR VALUE RECEIVED, the undersigned (each a “Borrower” and collectively, the “Borrowers”), hereby jointly and severally promise (except as otherwise set forth in Section 2.14 of the Agreement referenced below) to pay to \_\_\_\_\_ or its registered assigns (the “Lender”), in accordance with the provisions of the Agreement (as hereinafter defined), the principal amount of each Loan from time to time made by the Lender to the Borrowers under that certain Amended and Restated Credit Agreement, dated as of June 14, 2013 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “Agreement,” the terms defined therein being used herein as therein defined), among Quaker Chemical Corporation, the Designated Borrowers from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The Borrowers promise to pay interest on the unpaid principal amount of each Loan from the date of such Loan until such principal amount is paid in full, at such interest rates and at such times as provided in the Agreement. **[Except as otherwise provided in Section 2.04(f) of the Agreement with respect to Swing Line Loans, all] [All]** payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in the currency in which such Committed Loan is denominated and in Same Day Funds at the Administrative Agent’s Office for such currency. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Agreement.

This Note is one of the Notes referred to in the Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. Upon the occurrence and continuation of one or more of the Events of Default specified in the Agreement, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable all as provided in the Agreement. Subject to Section 2.11(a) of the Agreement, loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. Subject to Section 2.11(a) of the Agreement, the Lender may also attach schedules to this Note and endorse thereon the date, amount, currency and maturity of its Loans and payments with respect thereto.

Each Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Note.

Form of Note

---

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO ITS CONFLICTS OF LAW PRINCIPLES.

**[COMPANY]**

**OR**

**[APPLICABLE DESIGNATED BORROWER]**

By: \_\_\_\_\_

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

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

Form of Note

---

**LOANS AND PAYMENTS WITH RESPECT THERETO**

<b>Date</b>	<b>Type of Loan Made</b>	<b>Currency and Amount of Loan Made</b>	<b>End of Interest Period</b>	<b>Amount of Principal or Interest Paid This Date</b>	<b>Outstanding Principal Balance This Date</b>	<b>Notation Made By</b>
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Form of Note

---

## FORM OF COMPLIANCE CERTIFICATE

Financial Statement Date: \_\_\_\_\_,

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Credit Agreement, dated as of June 14, 2013 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Agreement," the terms defined therein being used herein as therein defined), among Quaker Chemical Corporation, a Pennsylvania corporation (the "Company"), the Designated Borrowers from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender.

The undersigned Responsible Officer hereby certifies, in his/her capacity as a Responsible Officer and not in his/her individual capacity, as of the date hereof that he/she is the \_\_\_\_\_ of the Company, and that, as such, he/she is authorized to execute and deliver this Certificate to the Administrative Agent on the behalf of the Company, and that:

*[Use following paragraph 1 for fiscal year-end financial statements]*

1. The Company has delivered the year-end audited financial statements required by Section 6.01(a) of the Agreement for the fiscal year of the Company ended as of the above date, together with the report and opinion of an independent certified public accountant required by such section.

*[Use following paragraph 1 for fiscal quarter-end financial statements]*

1. The Company has delivered the unaudited financial statements required by Section 6.01(b) of the Agreement for the fiscal quarter of the Company ended as of the above date. Such financial statements fairly present the financial condition, results of operations and cash flows of the Company and its Subsidiaries in accordance with GAAP as at such date and for such period, subject only to normal year-end audit adjustments and the absence of footnotes.

2. The undersigned has reviewed and is familiar with the terms of the Agreement and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition (financial or otherwise) of the Company during the accounting period covered by such financial statements.

3. A review of the activities of the Company during such fiscal period has been made under the supervision of the undersigned with a view to determining whether during such fiscal period the Company performed and observed all its Obligations and any other obligations under the Loan Documents, and

*[select one:]*

**[to the best knowledge of the undersigned, during such fiscal period the Company performed and observed each covenant and condition of the Loan Documents applicable to it, and no Default has occurred and is continuing.]**

--or--

**[to the best knowledge of the undersigned, during such fiscal period the following covenants or conditions have not been performed or observed and the following is a list of each such Default and its nature and status:]**

4. The representations and warranties of the Borrowers contained in Article V of the Agreement, and any representations and warranties of any Borrower that are contained in any document furnished at any time under or in connection with the Loan Documents, are true and correct in all material respects on and as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects as of such earlier date, and except that for purposes of this Compliance Certificate, the representations and warranties contained in subsections (a) and (b) of Section 5.05 of the Agreement shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b), respectively, of Section 6.01 of the Agreement, including the statements in connection with which this Compliance Certificate is delivered.

5. The financial covenant analyses and information set forth on Schedules 1 and 2 attached hereto are true and accurate on and as of the date of this Certificate.

6. Attached hereto as Annex A are amendments and supplements to the Schedules to the Agreement, which amendments or supplements are effective as of the date hereof.

*IN WITNESS WHEREOF*, the undersigned has executed this Certificate as

of \_\_\_\_\_, \_\_\_\_\_.

**QUAKER CHEMICAL CORPORATION**, a Pennsylvania corporation

By: \_\_\_\_\_

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

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

Form of Compliance Certificate

---

For the Quarter/Year ended \_\_\_\_\_ (“Statement Date”)

## SCHEDULE 1

to the Compliance Certificate (\$ in 000's)

### I. Section 7.11 (a) – Consolidated Interest Coverage Ratio.

A. Consolidated EBITDA for four consecutive fiscal quarters ending on above date (“Subject Period”):

1. Consolidated Net Income for Subject Period: \$ \_\_\_\_\_
2. Consolidated Interest Charges for Subject Period: \$ \_\_\_\_\_
3. Provision for Federal, state, local and foreign income taxes includable in Net Income for Subject Period including, Permitted Non-Cash Reversals: \$ \_\_\_\_\_
4. Depreciation expenses for Subject Period: \$ \_\_\_\_\_
5. Amortization expenses for Subject Period: \$ \_\_\_\_\_
6. non-cash charges in respect of any write down of assets taken in the ordinary course of business: \$ \_\_\_\_\_
7. non-cash compensation expenses related to the application of financial accounting standard FAS 123-R: \$ \_\_\_\_\_
8. non-cash compensation expenses not included under FAS 123-R, including stock grants and contributions of stock to a 401(k) or defined contribution pension plan: \$ \_\_\_\_\_
9. to the extent actually reimbursed by insurance or a third party, amounts paid for legal settlements, fines, judgments or orders: \$ \_\_\_\_\_
10. impairment charges, asset write offs and write downs, including impairment charges, asset write offs and write downs related to goodwill, intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP shall be excluded: \$ \_\_\_\_\_
11. any non-cash charges reducing Consolidated Net Income (provided, that if any such non-cash charge represents an accrual or reserve for potential cash items in any future period, (i) the Company may determine not to add back such non-cash charge in the current period and (ii) to the extent the Company does decide to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA): \$ \_\_\_\_\_
12. items expensed pursuant to FAS 141-R and FAS 160 that were previously capitalized under GAAP, including transactional expenses such as valuation, investment banking and legal fees: \$ \_\_\_\_\_
13. costs and expenses associated with transfers, relocations, departures and/or hiring of senior officers of the Company and its Subsidiaries or other members of the Management Executive Committee of the Company, including severance and other termination costs and relocation expenses: \$ \_\_\_\_\_
14. non-recurring expenses and restructuring costs in connection with restructurings, closures, reallocations and relocations, including severance pay and other employee termination costs: \$ \_\_\_\_\_
15. expected cost savings, operating expense reductions, and synergies reasonably identifiable and factually supportable (in the good faith determination of, and subject to certification thereof by, a Responsible Officer of the Company) related to permitted asset Dispositions and acquisitions: \$ \_\_\_\_\_
16. any other non-cash expenses for Subject Period as are approved by the Required Lenders: \$ \_\_\_\_\_
17. Federal, state, local and foreign income tax credits of the Company and its Subsidiaries for Subject Period: \$ \_\_\_\_\_



18. all non-cash items increasing Consolidated Net Income for Subject Period; provided that if any such non-cash items become cash items in a future period, such the cash receipt may be added back in such future period: \$ \_\_\_\_\_

19. Consolidated EBITDA (Lines I.A.1 + 2 + 3 + 4 + 5 + 6 + 7 + 8 + 9 + 10 + 11 + 12 + 13 + 14 + 15 +16 – 17– 18): \$ \_\_\_\_\_

B. Consolidated Interest Charges for Subject Period: \$ \_\_\_\_\_

C. Consolidated Interest Coverage Ratio (Line I.A.19 ÷ Line I.B): \_\_\_\_\_ to 1

*Minimum required:*2.50 to 1.00

**II. Section 7.11 (b) – Consolidated Leverage Ratio.**

A. Consolidated Funded Indebtedness at Statement Date: \$ \_\_\_\_\_

B. Consolidated EBITDA for Subject Period (Line I.A.19 above): \$ \_\_\_\_\_

C. Consolidated Leverage Ratio (Line II.A ÷ Line II.B): \_\_\_\_\_ to 1

*Maximum permitted:* 3.50 to 1.00

Form of Compliance Certificate

---

For the Quarter/Year ended \_\_\_\_\_ (“Statement Date”)

**SCHEDULE 2**

to the Compliance Certificate

(\$ in 000’s)

**Consolidated EBITDA**

(in accordance with the definition of Consolidated EBITDA

as set forth in the Agreement)

<b>Consolidated EBITDA</b>	<b>Quarter Ended</b>	<b>Quarter Ended</b>	<b>Quarter Ended</b>	<b>Quarter Ended</b>	<b>Twelve Months Ended</b>
Consolidated Net Income for Subject Period					
Consolidated Interest Charges for Subject Period					
Provision for Federal, state, local and foreign income taxes includable in Net Income for Subject Period including, Permitted Non-Cash Reversals					
Depreciation expenses for Subject Period					
Amortization expenses for Subject Period					
non-cash charges in respect of any write down of assets taken in the ordinary course of business					
non-cash compensation expenses related to the application of financial accounting standard FAS 123-R					
non-cash compensation expenses not included under FAS 123-R, including stock grants and contributions of stock to a 401(k) or defined contribution pension plan					
to the extent actually reimbursed by insurance or a third party, amounts paid for legal settlements, fines, judgments or orders					
impairment charges, asset write offs and write downs, including impairment charges, asset write offs and write downs related to goodwill, intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation,					

in each case pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP shall be excluded					
any non-cash charges reducing Consolidated Net Income (provided, that if any such non-cash charge represents an accrual or reserve for potential cash items in any future period, (i) the Company may determine not to add back such non-cash charge in the current period and (ii) to the extent the Company does decide to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA)					
items expensed pursuant to FAS 141-R and FAS 160 that were previously capitalized under GAAP, including transactional expenses such as valuation, investment banking and legal fees					
costs and expenses associated with transfers, relocations, departures and/or hiring of senior officers of the Company and its Subsidiaries or other members of the Management Executive Committee of the Company, including severance and other termination costs and relocation expenses					
non-recurring expenses and restructuring costs in connection with restructurings, closures, reallocations and relocations, including severance pay and other employee termination costs					
expected cost savings, operating expense reductions, and synergies reasonably identifiable and factually supportable (in the good faith determination of, and subject to certification thereof by, a Responsible Officer of the Company) related to permitted asset Dispositions and acquisitions					
any other non-cash expenses for Subject Period as are approved by the Required Lenders					
Federal, state, local and foreign income tax credits of the Company and its Subsidiaries for Subject Period					
all non-cash items increasing					

Consolidated Net Income for Subject Period; provided that if any such non-cash items become cash items in a future period, such the cash receipt may be added back in such future period					
=Consolidated EBITDA					

Form of Compliance Certificate

---

## ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (this “Assignment and Assumption”) is dated as of the Effective Date set forth below and is entered into by and between **[the][each]**<sup>1</sup> Assignor identified in item 1 below (**[the][each, an]** “Assignor”) and **[the][each]**<sup>2</sup> Assignee identified in item 2 below (**[the][each, an]** “Assignee”). **[It is understood and agreed that the rights and obligations of [the Assignors][the Assignees]<sup>3</sup> hereunder are several and not joint.]**<sup>4</sup> Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the “Credit Agreement”), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, **[the][each]** Assignor hereby irrevocably sells and assigns to **[the Assignee][the respective Assignees]**, and **[the][each]** Assignee hereby irrevocably purchases and assumes from **[the Assignor][the respective Assignors]**, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of **[the Assignor’s][the respective Assignors’]** rights and obligations in **[its capacity as a Lender][their respective capacities as Lenders]** under the Credit Agreement and any other documents or instruments delivered pursuant thereto in the amount **[s]** and equal to the percentage interest **[s]** identified below of all the outstanding rights and obligations under the respective facilities identified below (including, without limitation, the Letters of Credit and the Swing Line Loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of **[the Assignor (in its capacity as a Lender)][the respective Assignors (in their respective capacities as Lenders)]** against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by **[the][any]** Assignor to **[the][any]** Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as **[the][an]** “Assigned Interest”). Each such sale and assignment is without recourse to

---

<sup>1</sup> For bracketed language here and elsewhere in this form relating to the Assignor(s), if the assignment is from a single Assignor, choose the first bracketed language. If the assignment is from multiple Assignors, choose the second bracketed language.

<sup>2</sup> For bracketed language here and elsewhere in this form relating to the Assignee(s), if the assignment is to a single Assignee, choose the first bracketed language. If the assignment is to multiple Assignees, choose the second bracketed language.

<sup>3</sup> Select as appropriate.

<sup>4</sup> Include bracketed language if there are either multiple Assignors or multiple Assignees.

**[the][any]** Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by **[the][any]** Assignor.

1. Assignor[s]: \_\_\_\_\_

**[Assignor [is] [is not] a Defaulting Lender]**

2. Assignee[s]: \_\_\_\_\_

**[for each Assignee, indicate [Affiliate][Approved Fund] of [identify Lender]]**

3. Borrower(s): Quaker Chemical Corporation and the Designated Borrowers from time to time party to the Credit Agreement

4. Administrative Agent: Bank of America, N.A., as the administrative agent under the Credit Agreement
5. Credit Agreement: Amended and Restated Credit Agreement, dated as of [\_\_\_\_\_, 2013], among Quaker Chemical Corporation, the Designated Borrowers from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer, and Swing Line Lender

6. Assigned Interest:

Assignor[s] <sup>5</sup> Assignee[s] <sup>6</sup>	Facility Assigned <sup>7</sup>	Aggregate Amount of Commitment for all Lenders <sup>8</sup>	Amount of Commitment Assigned	Percentage Assigned of Commitment <sup>9</sup>	CUSIP Number
		\$	\$	%	
		\$	\$	%	
		\$	\$	%	

[7. Trade Date: \_\_\_\_\_] <sup>10</sup>

Effective Date: \_\_\_\_\_, 20\_\_ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

<sup>5</sup> List each Assignor, as appropriate.

<sup>6</sup> List each Assignee and, if available, its market entity identifier, as appropriate.

<sup>7</sup> Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment (e.g. "Revolving Credit Commitment, etc.).

<sup>8</sup> Amounts in this column and in the column immediately to the right to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

<sup>9</sup> Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

<sup>10</sup> To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR[S]<sup>11</sup>

[NAME OF ASSIGNOR]

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

[NAME OF ASSIGNOR]

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

ASSIGNEE[S]<sup>12</sup>

[NAME OF ASSIGNEE]

By: \_\_\_\_\_

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

**[NAME OF ASSIGNEE]**

By: \_\_\_\_\_

Title:

---

<sup>11</sup> Add additional signature blocks as needed. Include both Fund/Pension Plan and manager making the trade (if applicable).

<sup>12</sup> Add additional signature blocks as needed. Include both Fund/Pension Plan and manager making the trade (if applicable).

**[Consented to and]**<sup>13</sup> Accepted:

BANK OF AMERICA, N.A., as  
Administrative Agent

By: \_\_\_\_\_

Title:

**[Consented to:]**<sup>14</sup>

[ \_\_\_\_\_ ]

By: \_\_\_\_\_

Title:

---

<sup>13</sup> To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.

<sup>14</sup> To be added only if the consent of the Company and/or other parties (*e.g.* Swing Line Lender, L/C Issuer) is required by the terms of the Credit Agreement.

Form of Assignment and Assumption

---

STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1. Assignor. **[The][Each]** Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of **[the][the relevant]** Assigned Interest, (ii) **[the][such]** Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and (iv) it is **[not]** a Defaulting Lender; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Company, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Company, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. **[The][Each]** Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 10.06(b)(iii) and (v) of the Credit Agreement (subject to such consents, if any, as may be required under Section 10.06(b)(iii) of the Credit Agreement), (iii)(A) it is a Professional Market Party, and (B) it is aware that a Dutch Borrower may be in breach of Dutch Laws and regulations if the representation and warranty under (iii)(A) were to be untrue, (iv) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of **[the][the relevant]** Assigned Interest, shall have the obligations of a Lender thereunder, (v) it is sophisticated with respect to decisions to acquire assets of the type represented by **[the][such]** Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire **[the][such]** Assigned Interest, is experienced in acquiring assets of such type, (vi) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 6.01 thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase **[the][such]** Assigned Interest, (vii) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase **[the][such]** Assigned Interest, and (viii) if it is a Foreign Lender, attached hereto is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by **[the][such]** Assignee; and (b) agrees that (i) it will, independently and without reliance upon the Administrative Agent, **[the][any]** Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of **[the][each]** Assigned Interest (including payments of principal, interest, fees and other amounts) to **[the][the relevant]** Assignor for amounts which have accrued to but excluding the Effective Date and to **[the][the relevant]** Assignee for amounts which have accrued from and after the Effective Date. Notwithstanding the foregoing, the Administrative Agent shall make all payments of interest, fees or other amounts paid or payable in kind from and after the Effective Date to **[the][the relevant]** Assignee.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.



---

**FORM OF ADMINISTRATIVE QUESTIONNAIRE**

Form of Administrative Questionnaire

---

ADMINISTRATIVE DETAILS REPLY FORM – (MULTI-CURRENCY)

CONFIDENTIAL

---

1. Borrower or Deal Name \_\_\_\_\_ **Quaker Chemical Corporation** \_\_\_\_\_

1. E-mail this document with your commitment letter to: \_\_\_\_\_ **fani.davidson@baml.com** \_\_\_\_\_

E-mail address of recipient: \_\_\_\_\_ **fani.davidson@baml.com** \_\_\_\_\_

---

2. Legal Name of Lender of Record for Signature Page: \_\_\_\_\_

Markit Entity Identifier (MEI) # \_\_\_\_\_

Fund Manager Name (if applicable) \_\_\_\_\_

Legal Address from Tax Document of Lender of Record:

Country \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State/Province \_\_\_\_\_ Country \_\_\_\_\_

---

3. Domestic Funding Address:

Street Address \_\_\_\_\_

Address \_\_\_\_\_

Suite/ Mail Code \_\_\_\_\_

Code \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Postal Code \_\_\_\_\_ Country \_\_\_\_\_

4. Eurodollar Funding Address:

Street

Suite/ Mail

City \_\_\_\_\_ State \_\_\_\_\_

Postal Code \_\_\_\_\_ Country \_\_\_\_\_

---

5. Credit Contact Information:

*Syndicate level information (which may contain material non-public information about the Borrower and its related parties or their respective securities will be made available to the Credit Contact(s). The Credit Contacts identified must be able to receive such information in accordance with his/her institution's compliance procedures and applicable laws, including Federal and State securities laws.*

Primary Credit Contact:

First Name \_\_\_\_\_

Middle Name \_\_\_\_\_

Last Name \_\_\_\_\_

Title \_\_\_\_\_  
Street Address \_\_\_\_\_  
Suite/Mail Code \_\_\_\_\_  
City \_\_\_\_\_  
State \_\_\_\_\_  
Postal Code \_\_\_\_\_  
Country \_\_\_\_\_  
Office Telephone # \_\_\_\_\_  
Office Facsimile # \_\_\_\_\_  
Work E-Mail Address \_\_\_\_\_  
IntraLinks/SyndTrak  
E-Mail Address \_\_\_\_\_

**Secondary Credit Contact:**

First Name \_\_\_\_\_  
Middle Name \_\_\_\_\_  
Last Name \_\_\_\_\_  
Title \_\_\_\_\_  
Street Address \_\_\_\_\_  
Suite/Mail Code \_\_\_\_\_  
City \_\_\_\_\_  
State \_\_\_\_\_  
Postal Code \_\_\_\_\_  
Country \_\_\_\_\_  
Office Telephone # \_\_\_\_\_  
Office Facsimile # \_\_\_\_\_  
Work E-Mail Address \_\_\_\_\_  
IntraLinks/SyndTrak \_\_\_\_\_

**ADMINISTRATIVE DETAILS REPLY FORM – (MULTI-CURRENCY)**

*CONFIDENTIAL*

E-Mail Address \_\_\_\_\_

**Primary Operations Contact:**

First \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_  
 Title \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 Suite/ Mail Code \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_  
 Postal Code \_\_\_\_\_ Country \_\_\_\_\_  
 Telephone \_\_\_\_\_ Facsimile \_\_\_\_\_  
 E-Mail Address \_\_\_\_\_  
 IntraLinks/SyndTrak \_\_\_\_\_  
 E-Mail Address \_\_\_\_\_

**Secondary Operations Contact:**

First \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_  
 Title \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 Suite/ Mail Code \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_  
 Postal Code \_\_\_\_\_ Country \_\_\_\_\_  
 Telephone \_\_\_\_\_ Facsimile \_\_\_\_\_  
 E-Mail Address \_\_\_\_\_  
 IntraLinks/SyndTrak \_\_\_\_\_  
 E-Mail Address \_\_\_\_\_

*Does Secondary Operations Contact need copy of notices?* \_\_\_ YES \_\_\_ NO

**Letter of Credit Contact:**

First \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_  
 Title \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 Suite/ Mail Code \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_  
 Postal Code \_\_\_\_\_ Country \_\_\_\_\_  
 Telephone \_\_\_\_\_ Facsimile \_\_\_\_\_  
 E-Mail Address \_\_\_\_\_  
 IntraLinks/SyndTrak \_\_\_\_\_  
 E-Mail Address \_\_\_\_\_

**Draft Documentation Contact or Legal Counsel:**

First \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_  
 Title \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 Suite/ Mail Code \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_  
 Postal Code \_\_\_\_\_ Country \_\_\_\_\_  
 Telephone \_\_\_\_\_ Facsimile \_\_\_\_\_  
 E-Mail Address \_\_\_\_\_  
 IntraLinks/SyndTrak \_\_\_\_\_  
 E-Mail Address \_\_\_\_\_

<b>PLEASE CHECK IF YOU CAN FUND IN THE CURRENCIES REQUIRED FOR THIS TRANSACTION LISTED BELOW:</b>			
<b>US</b>	<b>YEN</b>		
<b>DOLLAR</b>			
<b>EUR</b>	<b>CAD</b>		
<b>GBP</b>	<b>PESOS</b>		

**6. Lender's SWIFT Payment Instructions for [Foreign Currency]:**

Pay  
to:

---

(Bank Name)

---

(SWIFT) (Country)

---

(Account #) (Account Name)

---

(FFC Account #) (FFC Account Name)

---

(Attention)

**ADMINISTRATIVE DETAILS REPLY FORM – (MULTI-CURRENCY)**

*CONFIDENTIAL*

---

**6. Lender's SWIFT Payment Instructions for [Foreign Currency]:**

Pay  
to:

\_\_\_\_\_  
(Bank Name)

\_\_\_\_\_  
(SWIFT) (Country)

\_\_\_\_\_  
(Account #) (Account Name)

\_\_\_\_\_  
(FFC Account #) (FFC Account Name)

\_\_\_\_\_  
(Attention)

**6. Lender's SWIFT Payment Instructions for [Foreign Currency]:**

Pay  
to:

\_\_\_\_\_  
(Bank Name)

\_\_\_\_\_  
(SWIFT) (Country)

\_\_\_\_\_  
(Account #) (Account Name)

\_\_\_\_\_  
(FFC Account #) (FFC Account Name)

\_\_\_\_\_  
(Attention)

**6. Lender's SWIFT Payment Instructions for [Foreign Currency]:**

Pay  
to:

\_\_\_\_\_  
(Bank Name)

\_\_\_\_\_  
(SWIFT) (Country)

\_\_\_\_\_  
(Account #) (Account Name)

\_\_\_\_\_  
(FFC Account #) (FFC Account Name)

\_\_\_\_\_  
(Attention)





**ADMINISTRATIVE DETAILS REPLY FORM – (MULTI-CURRENCY)**

*CONFIDENTIAL*

---

**7. Lender's Fed Wire Payment Instructions:**

Pay

to:

Bank  
Name \_\_\_\_\_  
ABA # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_  
Account  
# \_\_\_\_\_  
Account  
Name \_\_\_\_\_  
Attention \_\_\_\_\_

---

**8. Lender's Standby Letter of Credit, Commercial Letter of Credit, and Bankers' Acceptance Fed Wire Payment Instructions (if applicable):**

Pay

to:

Bank  
Name \_\_\_\_\_  
ABA # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_  
Account  
# \_\_\_\_\_  
Account  
Name \_\_\_\_\_  
Attention \_\_\_\_\_

Can the Lender's Fed Wire Payment Instructions in Section 6 be used?  YES  NO

---

**9. Lender's Organizational Structure and Tax Status**

**Please refer to the enclosed withholding tax instructions below and then complete this section accordingly:**

Lender Taxpayer Identification Number (TIN): \_\_\_\_\_ - \_\_\_\_\_

Tax Withholding Form Delivered to Bank of America (check applicable one):

W-9     W-8BEN     W-8ECI     W-8EXP     W-8IMY

**Tax Contact:**

First \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_

Title \_\_\_\_\_

Street Address \_\_\_\_\_

Suite/ Mail Code \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_

Postal Code \_\_\_\_\_ Country \_\_\_\_\_

Telephone \_\_\_\_\_ Facsimile \_\_\_\_\_

E-Mail Address \_\_\_\_\_

IntraLinks/SyndTrak

E-Mail Address \_\_\_\_\_

## ADMINISTRATIVE DETAILS REPLY FORM – (MULTI-CURRENCY)

*CONFIDENTIAL*

---

### NON-U.S. LENDER INSTITUTIONS

#### 1. Corporations:

If your institution is incorporated outside of the United States for U.S. federal income tax purposes, and is the beneficial owner of the interest and other income it receives, you must complete one of the following three tax forms, as applicable to your institution: a.) Form W-8BEN (Certificate of Foreign Status of Beneficial Owner), b.) Form W-8ECI (Income Effectively Connected to a U.S. Trade or Business), or c.) Form W-8EXP (Certificate of Foreign Government or Governmental Agency).

A U.S. taxpayer identification number is required for any institution submitting a Form W-8 ECI. It is also required on Form W-8BEN for certain institutions claiming the benefits of a tax treaty with the U.S. Please refer to the instructions when completing the form applicable to your institution. In addition, please be advised that U.S. tax regulations do not permit the acceptance of faxed forms. **An original tax form must be submitted.**

#### 2. Flow-Through Entities

If your institution is organized outside the U.S., and is classified for U.S. federal income tax purposes as either a Partnership, Trust, Qualified or Non-Qualified Intermediary, or other non-U.S. flow-through entity, an original Form W-8IMY (Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. branches for United States Tax Withholding) must be completed by the intermediary together with a withholding statement. Flow-through entities other than Qualified Intermediaries are required to include tax forms for each of the underlying beneficial owners.

Please refer to the instructions when completing this form. In addition, please be advised that U.S. tax regulations do not permit the acceptance of faxed forms. **Original tax form(s) must be submitted.**

### U.S. LENDER INSTITUTIONS:

If your institution is incorporated or organized within the United States, you must complete and return Form W-9 (Request for Taxpayer Identification Number and Certification). **Please be advised that we require an original form W-9.**

*Pursuant to the language contained in the tax section of the Credit Agreement, the applicable tax form for your institution must be completed and returned on or prior to the date on which your institution becomes a lender under this Credit Agreement. Failure to provide the proper tax form when requested will subject your institution to U.S. tax withholding.*

\*Additional guidance and instructions as to where to submit this documentation can be found at this link:



Tax Form Tool Kit  
2012.pdf

---

### 10. Bank of America's Payment Instructions:

USD

#### USD PAYMENT INSTRUCTIONS:

Bank of America  
New York NY  
ABA 026009593

Acct # 1366212250600  
Acct Name: Corporate Credit Services  
Ref: Quaker Chemical Corporation

---

5REV May 2012

---

**ADMINISTRATIVE DETAILS REPLY FORM – (MULTI-CURRENCY)**

*CONFIDENTIAL*

---

**EUR**

**EUR PAYMENT INSTRUCTIONS:**

Bank of America, London  
SWIFT: BOFAGB22  
IBAN #: GB80BOFA16505065280019  
Acct #: 65280019  
Attn Credit Services  
Ref: Quaker Chemical Corporation

**GBP**

**GBP PAYMENT INSTRUCTIONS:**

Bank of America, London  
SWIFT: BOFAGB22  
SORT CODE: 16-50-50  
IBAN GB58 BOFA 1650 5065 2800 27  
Acct #: 65280027  
Attn: Credit Services  
Ref: Quaker Chemical Corporation

**YEN**

**YEN PAYMENT INSTRUCTIONS:**

Bank of America, Tokyo  
SWIFT: BOFAJPJX  
Acct #: 606490661046  
Attn: Credit Services  
Ref: Quaker Chemical Corporation

**CAD**

**CANADIAN DOLLAR PAYMENT INSTRUCTIONS:**

Bank of America, Toronto Canada  
SWIFT: BOFACATT  
Acct #: 711465003220  
Attn: Credit Services  
Ref: Quaker Chemical Corporation

**MXN (only available to the US borrower)**

Bank of America, Mexico City  
Mexico City  
SWIFT: BOFAMXXM  
Account 945995193009  
Attn: Credit Services  
Ref: Quaker Chemical Corporation

**FORM OF DESIGNATED BORROWER  
REQUEST AND ASSUMPTION AGREEMENT**

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

To: Bank of America, N.A., as Administrative Agent

Ladies and Gentlemen:

This Designated Borrower Request and Assumption Agreement is made and delivered pursuant to Section 2.14 of that certain Amended and Restated Credit Agreement, dated as of June 14, 2013 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the “Credit Agreement”), among Quaker Chemical Corporation, a Pennsylvania corporation (the “Company”), the Designated Borrowers from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender, and reference is made thereto for full particulars of the matters described therein. All capitalized terms used in this Designated Borrower Request and Assumption Agreement and not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

Each of \_\_\_\_\_ (the “Designated Borrower”) and the Company hereby confirms, represents and warrants to the Administrative Agent and the Lenders that the Designated Borrower is a Subsidiary of the Company.

The documents required to be delivered to the Administrative Agent under Section 2.14 of the Credit Agreement will be furnished to the Administrative Agent in accordance with the requirements of the Credit Agreement.

**Complete if the Designated Borrower is a Domestic Subsidiary:** The true and correct U.S. taxpayer identification number of the Designated Borrower is \_\_\_\_\_.

**Complete if the Designated Borrower is a Foreign Subsidiary:** The true and correct unique identification number that has been issued to the Designated Borrower by its jurisdiction of organization and the name of such jurisdiction are set forth below:

Identification Number	Jurisdiction of Organization

The parties hereto hereby confirm that with effect from the date of the Designated Borrower Notice for the Designated Borrower, the Designated Borrower shall have obligations, duties and liabilities toward each of the other parties to the Credit Agreement identical to those which the Designated Borrower would have had if the Designated Borrower had been an original party to the Credit Agreement as a Borrower. Effective as of the date of the Designated Borrower Notice for the Designated Borrower, the Designated Borrower confirms its acceptance of, and consents to, all representations and warranties, covenants, and other terms and provisions of the Credit Agreement.

The parties hereto hereby request that the Designated Borrower be entitled to receive Loans under the Credit Agreement, and understand, acknowledge and agree that neither the Designated Borrower nor the Company on its behalf shall have any right to request any Loans for its account unless and until the date five Business Days after the effective date designated by the Administrative Agent in a Designated Borrower Notice delivered to the Company and the Lenders pursuant to Section 2.14 of the Credit Agreement.

This Designated Borrower Request and Assumption Agreement shall constitute a Loan Document under the Credit Agreement.

**THIS DESIGNATED BORROWER REQUEST AND ASSUMPTION AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

*IN WITNESS WHEREOF*, the parties hereto have caused this Designated Borrower Request and Assumption Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

**[DESIGNATED BORROWER]**

By: \_\_\_\_\_

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

**QUAKER CHEMICAL CORPORATION**, a Pennsylvania corporation

By: \_\_\_\_\_

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

Form of Designated Borrower Request and Assumption Agreement

---

**FORM OF DESIGNATED BORROWER NOTICE**

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

To: Quaker Chemical Corporation

The Lenders party to the Credit Agreement referred to below

Ladies and Gentlemen:

This Designated Borrower Notice is made and delivered pursuant to Section 2.14 of that certain Amended and Restated Credit Agreement, dated as of June 14, 2013 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement"), among Quaker Chemical Corporation, a Pennsylvania corporation (the "Company"), the Designated Borrowers from time to time party thereto, the Lenders from time to time party thereto, and Bank of America, N.A., as Administrative Agent, L/C Issuer and Swing Line Lender, and reference is made thereto for full particulars of the matters described therein. All capitalized terms used in this Designated Borrower Notice and not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

The Administrative Agent hereby notifies Company and the Lenders that effective as of the date hereof [\_\_\_\_\_] shall be a Designated Borrower and may receive Loans for its account on the terms and conditions set forth in the Credit Agreement.

This Designated Borrower Notice shall constitute a Loan Document under the Credit Agreement.

BANK OF AMERICA, N.A.,

as Administrative Agent

By: \_\_\_\_\_

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



**OPINION MATTERS**

[Form of Legal Opinions to be Attached]

Opinion Matters

---

## Form of Opinion

1. The Company is a corporation validly subsisting under the laws of the Commonwealth of Pennsylvania. Quaker Delaware is a corporation validly existing and in good standing under the laws of the State of Delaware. Epmar is a corporation validly existing and in good standing under the laws of the State of California.
  2. Each of the Subject Borrowers has the corporate power to execute and deliver the Transaction Documents to which it is a party and to perform its obligations thereunder. The execution, delivery and performance by the each of the Subject Borrowers of its obligations under the Transaction Documents to which it is a party have been duly authorized by all necessary corporate action on the part of such Subject Borrower. Each of the Transaction Documents to which each Subject Borrower is a party has been duly executed and delivered by such Subject Borrower.
  3. Each of the Transaction Documents to which a Subject Borrower is a party is a legal, valid and binding obligation of such Subject Borrower, enforceable against it in accordance with its terms.
  4. The execution and delivery by each Subject Borrower of, and the performance by each Subject Borrower of its obligations under, the Transaction Documents to which it is a party and the consummation of the Closing by such Subject Borrower do not violate (a) the certificate or articles of incorporation or bylaws of such Subject Borrower or (b) any Subject Law (as defined below).
  5. The execution and delivery by each Subject Borrower of, and the performance by each Subject Borrower of its obligations under, the Transaction Documents to which it is a party and the consummation of the Closing by such Subject Borrower do not cause a breach or violation of any of the terms or provisions of, or constitute a default under any Material Agreement to which such Subject Borrower is a party.
  6. No consent, approval or authorization of, or filing with, any government authority is required under Subject Law to be made by any Subject Borrower in connection with the execution and delivery by any Subject Borrower of the Transaction Documents.
  7. None of the Company or any Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940.
-

**FORM OF  
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Credit Agreement dated as of June 14, 2013 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Quaker Chemical Corporation, a Pennsylvania corporation, the Designated Borrowers from time to time party thereto and each Lender from time to time party thereto.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: \_\_\_\_\_

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

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

Date: \_\_\_\_\_, 20[ ]

Form of U.S. Tax Compliance Certificate

---

**FORM OF  
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Credit Agreement dated as of June 14, 2013 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Quaker Chemical Corporation, a Pennsylvania corporation, the Designated Borrowers from time to time party thereto and each Lender from time to time party thereto.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: \_\_\_\_\_

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

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

Date: \_\_\_\_\_, 20[ ]

Form of U.S. Tax Compliance Certificate

---

**FORM OF  
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Credit Agreement dated as of June 14, 2013 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Quaker Chemical Corporation, a Pennsylvania corporation, the Designated Borrowers from time to time party thereto and each Lender from time to time party thereto.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

**[NAME OF PARTICIPANT]**

By: \_\_\_\_\_

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

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

Date: \_\_\_\_\_, 20[ ]

Form of U.S. Tax Compliance Certificate

---

**FORM OF  
U.S. TAX COMPLIANCE CERTIFICATE**

(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Amended and Restated Credit Agreement dated as of June 14, 2013 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among Quaker Chemical Corporation, a Pennsylvania corporation, the Designated Borrowers from time to time party thereto and each Lender from time to time party thereto.

Pursuant to the provisions of Section 3.01(e) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

**[NAME OF LENDER]**

By: \_\_\_\_\_

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

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

DATE: \_\_\_\_\_, 20[ ]

Form of U.S. Tax Compliance Certificate



## MEMORANDUM OF EMPLOYMENT

**Effective: August 1, 2013**

**NAME: JAN F. NIEMAN**

The parties to this Memorandum of Employment (“Agreement”) are **JAN F. NIEMAN** and **Quaker Chemical Corporation**, a Pennsylvania corporation (“Quaker” or the “Company”).

You have been employed by Quaker or one of its affiliates since 1992, most recently as the Vice President & Managing Director of Asia Pacific. Effective August 1, 2013 you are appointed Quaker’s Vice President, Global Leader –Grease/Fluid Power/Mining and Quaker wishes to adjust your compensation and enter into this Agreement containing certain covenants in connection with this appointment.

NOW THEREFORE in consideration of the mutual promises and covenants herein contained and intending to be legally bound hereby the parties hereto agree as follows:

### **1. Duties**

Effective as of the date written above, Quaker agrees to employ you and you agree to serve as Quaker’s Vice President, Global Leader Grease/Fluid Power/Mining, located at our Conshohocken, PA facility. You shall perform all duties consistent with such position as well as any other duties that are assigned to you from time to time by Quaker’s Chief Executive Officer. You agree that during the term of your employment with Quaker to devote your knowledge, skill, and working time solely and exclusively to the business and interests of Quaker and its subsidiaries. Any and all prior employment or other agreements, with the exception of the June 27, 2007 Change of Control agreement, are hereby terminated and have no further legal effect.

---

## **2. Compensation**

Your base salary will be determined from time to time by the Compensation / Management Development Committee Meeting of the Board of Directors, in consultation with the Chief Executive Officer. In addition, you will be entitled to participate, to the extent eligible, in any of Quaker's annual and long term incentive plans, retirement savings plan (401k plan), stock purchase plan, and will be entitled to vacations, paid holidays, and medical, dental, and other benefits as are made generally available by Quaker Chemical Corporation to its full-time U.S. employees. During your employment with Quaker, your salary will not be reduced by Quaker without your prior written consent.

## **3. Term of Employment**

Your employment with Quaker may be terminated on thirty (30) days' written notice by either party, with or without cause or reason whatsoever. Within thirty (30) days after termination of your employment, you will be given an accounting of all monies due you.

## **4. Covenant Not to Disclose**

You acknowledge that the identity of Quaker's (and any of Quaker's affiliates') customers, the requirements of such customers, pricing and payment terms quoted and charged to such customers, the identity of Quaker's suppliers and terms of supply (and the suppliers and related terms of supply of any of Quaker's customers for which management services are being provided), information concerning the method and conduct of Quaker's (and any affiliate's) business such as formulae, formulation information, application technology, manufacturing information, marketing information, strategic and marketing plans, financial information, financial statements (audited and unaudited), budgets, corporate practices and procedures, research and development efforts, and laboratory test methods and all of Quaker's (and its affiliates') manuals, documents, notes, letters, records, and computer programs are Quaker's trade secrets ("Trade Secrets") and are Quaker's (and/or any of its affiliates', as the case may be) sole and exclusive property. You agree that at no time during or following your employment with Quaker will you appropriate for your own use, divulge or pass on, directly or through any other individual or entity or to any third party, any Quaker Trade Secrets. Upon termination of your employment with Quaker and prior to final payment of all monies due to you under Paragraph 2 or at any other time upon Quaker's request, you agree to surrender immediately to Quaker any and all materials in your possession or control which include or contain any Quaker Trade Secrets.



## 5. Covenant Not to Compete

In consideration of your employment with Quaker and the training you are to receive from Quaker, you agree that during your employment with Quaker and for a period of one (1) year thereafter, regardless of the reason for your termination, you will not:

a. directly or indirectly, together or separately or with any third party, whether as an employee, individual proprietor, partner, stockholder, officer, director, or investor, or in a joint venture or any other capacity whatsoever, actively engage in business or assist anyone or any firm in business as a manufacturer, seller, or distributor of chemical specialty products which are the same, like, similar to, or which compete with Quaker (or any of its affiliates') products or services; and

b. at the Chemical Management Services sites to which you are, have, or will specifically ever be assigned in the future, directly or indirectly, together or separately or with any third party, whether as an employee, individual proprietor, partner, stockholder, officer, director, or investor, or in a joint venture or any other capacity whatsoever, actively engage in business or assist anyone or any firm in business as a provider of chemical management services which are the same, like, similar to, or which compete with Quaker (or any of its affiliates') services; and

c. recruit or solicit any Quaker employee or otherwise induce such employee to leave Quaker's employ, or to become an employee or otherwise be associated with you or any firm, corporation, business, or other entity with which you are or may become associated; and

d. solicit or induce any of Quaker's suppliers of products and/or services (or a supplier of products and/or services of a customer who is being provided or solicited for the provision of chemical management services by Quaker) to terminate or alter its contractual relationship with Quaker (and/or any such customer).

The parties consider these restrictions reasonable, including the period of time during which the restrictions are effective. However, if any restriction or the period of time specified should be found to be unreasonable in any court proceeding, then such restriction shall be modified or the period of time shall be shortened as is found to be reasonable so that the foregoing covenant not to compete may be enforced. You agree that in the event of a breach or threatened breach by you of the provisions of the restrictive covenants contained in Paragraph 4 or in this Paragraph 5, Quaker will suffer irreparable harm, and monetary damages may not be an adequate remedy. Therefore, if any breach occurs, or is threatened, in addition to all other remedies available to Quaker, at law or in equity, Quaker shall be entitled as a matter of right to specific performance of the covenants contained herein by way of temporary or permanent injunctive relief. In the event of any breach of the restrictive covenant contained in this Paragraph 5, the term of the restrictive covenant shall be extended by a period of time equal to that period beginning on the date such violation commenced and ending when the activities constituting such violation cease.

## **6. Contractual Restrictions**

You represent and warrant to Quaker that: (a) there are no restrictions, agreements, or understandings to which you are a party that would prevent or make unlawful your employment with Quaker and (b) your employment by Quaker shall not constitute a breach of any contract, agreement, or understanding, oral or written, to which you are a party or by which you are bound.

## **7.. Inventions**

All improvements, modifications, formulations, processes, discoveries or inventions ("Inventions"), whether or not patentable, which were originated, conceived or developed by you solely or jointly with others (a) during your working hours or at Quaker's expense or at Quaker's premises or at a customer's premises or (b) during your employment with Quaker and additionally for a period of one year thereafter, and which relate to (i) Quaker's business or (ii) any research, products, processes, devices, or machines under actual or anticipated development or investigation by Quaker at the earlier of (i) that time or (ii) as the date of termination of employment, shall be Quaker's sole property. You shall promptly disclose to Quaker all Inventions that you conceive or become aware of at any time during your employment with Quaker and shall keep complete, accurate, and authentic notes, data and records of all Inventions and of all work done by you solely or jointly with others, in the manner directed by Quaker. You hereby transfer and assign to Quaker all of your right, title, and interest in and to any and all Inventions which may be conceived or developed by you solely or jointly with others during your employment with Quaker. You shall assist Quaker in applying, obtaining, and enforcing any United States Letters Patent and Foreign Letters Patent on any such Inventions and to take such other actions as may be necessary or desirable to protect Quaker's interests therein. Upon request, you shall execute any and all applications, assignments, or other documents that Quaker deems necessary and desirable for such purposes. You have attached hereto a list of unpatented inventions that you have made or conceived prior to your employment with Quaker, and it is agreed that those inventions shall be excluded from the terms of this Agreement.

## **8. Termination.**

Quaker, in its sole discretion, may terminate your employment at any time and for any reason, including Cause (as defined herein). If you incur a Separation from Service by action of Quaker for any reason other than Cause, death, disability or normal retirement age, Quaker agrees to:

a. Provide you with reasonable outplacement assistance, either by providing the services in-kind, or by reimbursing reasonable expenses actually incurred by you in connection with your Separation from Service. The outplacement services must be provided during the one-year period following your Separation from Service. If any expenses are to be reimbursed, you must request the reimbursement within eighteen months of your Separation from Service and reimbursement will be made within 30 days of your request.

b. Pay you one year's severance in twenty-four semi-monthly installments commencing on the Payment Date and continuing on Quaker's normal semi-monthly payroll dates each month thereafter, each of which is equal to your semi-monthly base salary at the time of your Separation from Service, provided you sign a Release within 45 days of the later of the date you receive the Release or your Separation from Service. Continuation of medical and dental coverage's will be consistent with current Quaker severance program in place at the time of termination,

**"Separation from Service"** means your separation from service with Quaker and its affiliates within the meaning of Treas. Reg. §1.409A-1(h) or any successor thereto.

**"Cause"** means your employment with Quaker has been terminated by reason of (i) your willful and material breach of this Memorandum of Employment, (ii) dishonesty, fraud, willful malfeasance, gross negligence, or other gross misconduct, in each case relating to the performance of your duties hereunder which is materially injurious to Quaker, or (iii) conviction of or plea of guilty or nolo contendere to a felony.

**"Payment Date"** means (x) the 60th day after your Separation from Service or (y) if you are a specified employee (as defined in Treas. Reg. §1.409A-1(i)) as of the date of your Separation from Service, and the severance described in subsection (b) is deferred compensation subject to section 409A of the Code, the first business day of the seventh month following the month in which your Separation from Service occurs. If the Payment Date is described in clause (y), the amount paid on the Payment Date shall include all monthly installments that would have been paid earlier had clause (y) not been applicable, plus interest at the Wall Street Journal Prime Rate published in the Wall Street Journal on the date of your Separation from Service (or the previous business day if such day is not a business day), for the period from the date payment would have been made had clause (y) not been applicable through the date payment is made.

**"Release"** means a release (in a form satisfactory to Quaker) of any and all claims against Quaker and all related parties with respect to all matters arising out of your employment with Quaker, or the termination thereof (other than for claims for any entitlements under the terms of this Memorandum of Employment or any plans or programs of Quaker under which you have accrued a benefit) that Quaker provides to you no later than ten days after your Separation from Service. If a release is not provided to you within this time period, the severance shall be paid even if you do not sign a release.

**9. Miscellaneous**

This Agreement constitutes the entire integrated agreement concerning the subjects covered herein. In case any provision of this Agreement shall be invalid, illegal, or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions shall not thereby be affected or impaired. You may not assign any of your rights or obligations under this Agreement without Quaker's prior written consent. This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Pennsylvania without regard to any conflict of laws. This Agreement shall be binding upon you, your heirs, executors, and administrators and shall inure to the benefit of Quaker as well as its successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ATTEST:

QUAKER CHEMICAL CORPORATION

/ s / A s h l e y A .  
Miller

/s/ Michael F. Barry  
\_\_\_\_\_

WITNESS:

/s/ Robert T. Traub  
\_\_\_\_\_

/s/ Jan F.  
Nieman  
Jan F. Nieman

## ADDENDUM 1

**Base Salary:** Your salary will be payable on a semi-monthly basis at the rate of \$13,254.50, which is annualized at \$318,108.00. You will be eligible for your next salary increase in 2014.

**Annual and Long-Term Bonuses:** For your position, you are eligible to participate in the Global Annual Incentive Plan ("GAIP") with target and maximum award percentages for 2013 under the GAIP of 33% and 60%, respectively, of your base salary, dependent upon Quaker's financial results and personal objectives to be determined.

You are also eligible to participate in the Long-Term Performance Incentive Plan ("LTIP"). Your award for the 2013-2015 performance period includes an even mix of time-based restricted stock, stock options, and a cash award. Your award is as follows: 796 shares of restricted stock, 2130 stock options and a target cash award of \$46,419. The exact cash award will be determined by performance over the three-year period based on relative total shareholder returns against a pre-determined peer group.

All incentive compensation awards are made at the Company's discretion, are subject to change, and require the approval of the Compensation Committee.

**Relocation:** You are eligible for relocation benefits for a move to the greater Philadelphia / Conshohocken area, as noted below. You will be eligible for household goods move (packing, moving and unpacking) through Quaker's third party relocation company. In addition, you are eligible for reimbursement for closing costs on the purchase of a new home (in the greater Philadelphia / Conshohocken area), \$13,500 for miscellaneous expenses or up to three (3) months of temporary housing with an allowance of up to \$4,500.00 per month, as well as up to three (3) months of household storage of up to \$5,000.00 per month.

If you desire to return to The Netherlands anytime after a five year period from the date of this Agreement, every effort will be made to find a mutually suitable position based in The Netherlands. In such event, you will be responsible to pay for any relocation expenses associated with this move.

**Financial  
Planning:**

You will be eligible to be reimbursed for up to \$3,500.00 per calendar year for expenses incurred for financial planning and/or tax preparation.

**Benefits:**

Quaker offers a Flexible Benefits Program. This gives you the opportunity to choose from a variety of options creating a customized benefits package. The following benefits are part of the program. In each of these areas, you are offered a range of options so you may choose the ones that make the most sense for your personal situation.

- . Medical
- . Dental
- . Life & AD&D Insurance
- . Long-term Disability
- . Health Care and Dependent Care Flexible Spending Accounts (FSAs)

In addition to these flexible benefits, Quaker also offers the following benefit plans:

Retirement Savings Plan (401K)

**Vacation /  
Holidays:**

You will be eligible for 30 days vacation per calendar year while you are working in the U.S. In addition your will be eligible for 11½ paid regional holidays.

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER OF THE COMPANY PURSUANT TO RULE 13a-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934**

I, Michael F. Barry, certify that:

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

Date: July 29, 2013

/s/ Michael F. Barry  
Michael F. Barry  
Chief Executive Officer

**CERTIFICATION OF CHIEF FINANCIAL OFFICER OF THE COMPANY PURSUANT TO RULE 13a-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934**

I, Margaret M. Loebel, certify that:

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

Date: July 29, 2013

/s/ Margaret M. Loebel  
Margaret M. Loebel  
Chief Financial Officer



**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350**

The undersigned hereby certifies that the Form 10-Q Quarterly Report of Quaker Chemical Corporation (the “Company”) for the quarterly period ended June 30, 2013 filed with the Securities and Exchange Commission (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: July  
29, 2013

/s/ Michael F. Barry  
Michael F. Barry  
Chief Executive Officer of Quaker  
Chemical Corporation

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350**

The undersigned hereby certifies that the Form 10-Q Quarterly Report of Quaker Chemical Corporation (the “Company”) for the quarterly period ended June 30, 2013 filed with the Securities and Exchange Commission (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: July  
29, 2013

/s/ Margaret M. Loebl  
Margaret M. Loebl  
Chief Financial Officer of Quaker  
Chemical Corporation

